710.

Modus tenendi Parliamentum:

OR,

The Old Manner of Holding

PARLIAMENTS

IN

England.

Extracted out of our Ancient RECORDS.

With certain Municipal Rights and Customes of this Common-wealth of *ENGLAND.*

Together with

The Priviledges of PARLIAMENT;

And the Manner how Lawes are there Enacted by *Passing* of *Bills.*

Collected out of the Journal of the House of COMMONS.

By W. HAKEWEL of *Lincols-Inne*, Esq;

LONDON, Printed for *Abel Roper*, at the Sunne in Fleetstreet. 1660.

TO THE INTELLIGENT

READER.

IT *is no improper Character which may be given of the* Law, *that it is nothing else but* Reason refin'd, *or* Reason regulated; *it may also be well called the Results of Counsel and Wisdom, after mature and long deliberation; for* Deliberandum est diu, quod statuendum est semel: *That which is to bear the stamp of a* Law, *must be a long time a moulding: there must be prævious debates, bandings of arguments, and clashings of opinions* pro & con *go before: for as we find that fire issueth forth from the concussion of flint and iron, so truth comes forth out of*

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the eventillations and clashings of several opinions. This hath been alwayes the mode and method of our English *Parliaments, that high National Court, which may be said to be the fountain whence our Lawes do spring: which Court being composed of a number of the choicest and most judicious Gentlemen of the whole land when there assembled, have power not onely to constitute and enact new Lawes, but to enlarge, alter, repeal, disanul, or revive any old Statute, Act, or Ordinance for the common good and incollumity, as also for the welfare and security of the Nation: This great Councel hath been alwayes held to be the Bulwark of our liberties, the main boundary and bank which keeps us from the inundations of tyrannical power, from arbitrary and unbounded will-Government; It is the only prerogative of Parliament* jus dare, *and afterward of the*

grave

grave Iudges upon their ſeveral Tribunals jus dicere, *to declare, expound, and put in execution the Lawes, and Conſtitutions which have been there enacted.*

This preſent Treatiſe conſiſting of ſundry Material parts, will ſhew us the manner and legal forms how this high Court of Parliament hath been held from the beginning. It was compiled by that worthy Gentleman Mr. Hakewel, *one of the Benchers of* Lincolns-*Inne, a grave and judicious Councellor at law, one who had ſate in divers Parliaments, and having out of his great reading, and long converſation with antiquity, extracted thoſe remarkable obſervations whereof this book is compoſed, it was thought expedient to publiſh it for the generall good. Therefore it is very fit to be read by all free-born Subjects, for thereby they will inform their*

their understandings upon what grounds our Lawes and Liberties are founded.

The

THE MANNER OF HOLDING A PARLIAMENT in the second of EDWARD the Confessor Son of K. *Etheldred.*

HEre is described the Manner after which the *Parliament* of the King of *England*, and of his English People was kept in times of K ing *Edward* the Sonne of *Etheldred* the King; which manner was rehearsed by the discreet sort of the Kingdome, before *William* Duke of *Normandy* the Conquerour, and King of *England*; the Conqueror himself commanding this; and by himself approved and used in his times, and in the times of his Successours Kings of *England*.

Of the Summons of Parliament.

40 dais. The Summons of *Parliament* ought to go fourty dayes before the first day of the *Parliament*.

Concerning the Clergy.

Per Comitatum & Baron. summoneri debent. Minores Clerici non summoneri debent, sed si eorum præsentia necessaria fuerit. Rex solebat talibus brevia sua mittere, regans quod Parliam. suo interesset.

The *Parliament* ought to be summoned and come, the Arch-Bishops, Bishops, and other chief of the Clergie, who come thither by holding of some County or Barony, and because of such tenure, and not otherwise; and none of the less degree of the Clergy, unless their presence or coming thither may be required in some other respect then by their Tenures; or, unless they be of the Kings Counsell, or their presence may be deemed necessary, or accounted profitable for the *Parliament*: and the King is bound to minister unto them their costs and expences in coming and tarrying at the *Parliament*. Neither ought such of the lower degree of the Clergie-men be summoned to the *Parliament*, but the King was wont together to send

out

send out his Writs to such men, requiring them that they should be present at his *Parliament*.

Also the King was wont to give Summons to the Arch-bishops, Bishops, and others exempted persons; or to Abbots, Priors, and other Ecclesiasticall persons, that have by such exemptions and priviledges their severall jurisdictions, according to their several Deaneries, and Arch-deaneries of *England*, through their Deaneries and Arch-deaneries aforesaid, should cause to be chosen two skilful and fit Proctors or Clerks of the Convocation-house out of the same Arch-deanery, to come and to be present at, to answer, to undergoe, to alledge and to do there, that which all and every Parson of their Deaneries, and Arch-deaneries should, if they, and all, and every of them were personally present there. And that such Proctors or Clerks of the Convocation house come with their two Warrants, sealed with the seals of their superiours, because they are chosen and sent to such a Proctorship: The one of which Letters should be delivered to the Clark

Proctors to be chosen for ye Clergy

of the *Parliament* to be enrolled, and the other remain in the Proctors and Clerks themselves : and so under these two kinds of Summons, the whole Clergy ought to be Summoned to the Kings *Parliament*.

Concerning the Laity.

Summoneri debent omnes & singuli Comites, Barones & cor. pares qui tenent ad valent. unius Comitat. vel. Baron. integra.

Also all and every Earle, and Baron, and their Peers ought to be summoned and come to the *Parliament*, to wit, those that have Lands and Revenues to the value of a whole County, which maketh foure hundred pounds in the whole; or to the value of one whole Barony, to wit, Thirteen fees, and the third part of one Knights fee, every fee being reckoned at twenty pounds, makes in the whole, four hundred marks; and no lower Lay-men ought to be summoned to come to the *Parliament* by reason of their tenure, unlesse their presence for other causes be profitable and necessary to the *Parliament*; and then they ought to be dealt withall, as is said of the lower degree of the *Clergy*, men who are not bound by reason of their tenure to come to the *Parliament*:

Minores laici summoneri non debent.

Also

Alſo the King was wont to ſend his Writs to the Warden of the Cinque Ports, that he might cauſe to be choſen to come and be preſent at the *Parliament* to anſwer, undergoe, and doe there that which their Burroughs themſelves ſhould doe, if all and every one of them were perſonally preſent there; and ſuch Barons ſhould come with their two Warrants ſealed with the common Seales of their Ports, to ſhew that they were orderly choſen, and ſent from the Baronies to that end; the one whereof ſhall be delivered to the Clark of the *Parliament*, and the other to remain with the Barons themſelves: And when ſuch Barons of the Ports, having obtained Licenſe, ſhould depart from the *Parliament*, then they were wont to have a VVrit under the great Seale of the VVarden of the Cinque Ports, that thay might have their reaſonable Coſts and Expences, meet for ſuch Barons, out of the County of the Port from whence they came towards the *Parliament*, until the day wherein they returned home

to their own houſes, there being expreſs mention made in the Writ of the ſtay they made at the *Parliament*, and of the day wherein to return. Yea, there was wont ſometimes mention to be made in the Writ, how much ſuch Barons ſhould take of the Counties from whence they came for a day, to wit, ſome had more, ſome had leſs, according to the ability, and honeſty of the perſons themſelves; neither were they wont to put down for two Barons above twenty ſhillings by the day, and yet therein had they reſpect to the charges of their ſtayings, labour, and expence; neither were ſuch uncertain expences to be put down, and allowed by the Court, for all and every one ſo choſen and ſent for their Counties, unleſs the perſons themſelves were honeſt, and behaved themſelves well in the *Parliament*.

Touching the Knights of the Shire.

Alſo the *King* was wont to ſend his Writs to all the Sheriffs of *England*, that every one might cauſe to be

be chosen out of his own County, through the Countrey it self, two Knights, fit, honest and skilfull, to come to his *Parliament*, after the same manner which is spoken of the Barons of the Ports; and for their Warrants they should come after the same manner.

But for the expences out of one County, for two Knights, there was not wont to be set down and allowed above one Mark a day, and now eight shillings a day, to wit, for every one of them four shillings.

Touching the Citizens.

After the same manner Commandement was wont to be given to the Major and Sheriffe of *London*, the Major and Bayliffes to the Major and Citizens of *Yorke*, and of other Cities, that they for the County of their City should choose two fit, honest and skilful Citizens to come to the *Parliament*, after the same manner which is spoken of the Barons of the Cinque Ports, and the Knights of the Shires: and the Citizens were wont to be

Peers and equals with the Knights of the Shires in expences, all the while they came, tarried, and returned from the *Parliament*.

Touching the Burgesses.

After the same manner commandment was wont to be given to the Bailiffes and honest men of Burrows and Towns Corporate, that they ought of themselves and by themselves to chuse two fit, honest and skilful Burgesses to come and be present at the Kings *Parliament*, after the same manner as is spoken concerning Citizens: but two Burgesses were not wont to receive by the day for their expences above ten shillings, and sometimes not above a Noble, which was wont to be taxed by the Court, according to the greatness of the Burrows, and the persons sent. Hitherto hath been delared the form, quality, and persons, how long a time before the summons of the *Parliament* ought to be made, and who are those that ought to come by the summons, and who not.

Now secondly, we must shew who they

they are which by reason of their Offices ought to come, and are bound to be present at the *Parliament*-time without summons: whereupon we must make the two principal Clerks of the *Parliament* elected by the King and his Councel, and other secondary undertakers, of whom, and whose Offices we will speak more specially afterwards; and the principal Cryer of *England* with their Under-Cryers; and the principal Porter of *England*; which two Offices were wont to belong to one person: These two Officers are bound to be present the first day.

The Chancellour of *England*, the Treasurer and Chamberlains, and Barons of the Exchequer, Justices, and all the Clerks, and the Kings Knights, together with them that sue for the Kings Pleas, who are of the Kings Councel, are bound to be present the second day, unless by order they be excused.

Touching the beginning of Parliament.

The Lord the King shall sit in the midst of the great Bench, and is bound to be present in the first & last

day of *Parliament*. And the Chancellour, Treasurer, Barons of the Exchequer, and Justices were wont to record the defaults made in *Parliament*, according to the order following.

In the First day the Burgesses and Citizens of all *England* shall be called; at which day if they do not come, the Shires shall be amerced at an hundred pounds.

In the Third day of the *Parliament* the Barons of the Cinque-Ports shall be called, and afterwards the Barons of *England*, after them the Earls: whereupon if the Barons of the Cinque-Ports do not come, the Barony from whence they are shall be amerced at an hundred Marks, and an Earl at an hundred pounds. And after the same manner it must be done with those that are equal to Earls and Barons, namely, which have Lands and Revenews to the value of an Earldom, or of one Barony, as before said.

In the Fourth day, the Proctors of the

the Clergy or Clerks of the Convocation-house shall be called; if they come not, their Bishops shall be amerced for every Arch-deanery one hundred pounds.

In the First day, the Deans, Priors, Abbots, Bishops, and at length the Archbishops shall be called; who if they do not come, every Archbishop shall be fined at an hundred pounds; and every one holding a whole Barony or Abbots, Doctors at an hundred Marks.

In the First day Proclamation ought to be made in the Hall, or in the Monastery, or in some publick place, where the *Parliament* is to be held, and afterwards publickly in the City or Town, *That all those who would deliver Petitions or Bills to the* Parliament, *that they may deliver them the First day, and so other five days next following.*

The 5 first days only for delivery of Petitions

Touchb.

Touching the Preaching at the Parliament.

An Arch-biſhop or Biſhop, or ſome great Clerk diſcreet and eloquent, choſen by the Arch-biſhop in whoſe Province the *Parliament* is held, ought to preach one of the ſaid five dayes of *Parliament*, and in the preſence of the King: and this muſt be done when the *Parliament* for the greater part ſhall be joyned and gathered together. In his Sermon, he ſhall admoniſh and exhort the whole *Parliament*, that they with him humbly pray *God*, and worſhip him for the peace and tranquillity of the king and Kingdom, as ſhall be ſaid in the Title following.

Touching the Speech for the Parliament.

After preaching, the Chancellor of *England*, or the Lord chief Juſtice of *England*, or ſome other fit, honeſt, & eloquent Juſtice or Clerk choſen by the Chancellour, or chief Juſtice hemſelves, ought, ſtanding to pronounce

nounce the causes of the *Parliament*. Whosoever they be, whilest they speak, shall stand (except the King) so that all of the *Parliament* might hear him that speaketh, or if he speak something darkly, or talk in a low voice, let him speak again, and speak louder also, or let another speak for him.

Touching the Speech of the King after the Speech before mentioned.

The King (after the Speech beforementioned) ought to require the Clergy and Laity, naming them after their degrees, as Archbishops, Bishops, and Abbots, &c. Earls, Barons, Knights, Citizens, &c. that they carefully, diligently, and heartily labour throughly to handle, labour, and deliberate in the business of the *Parliament*, even as they shall understand and perceive that this shall be first according to the will and pleasure of *God*, and afterwards for his and their honours and commodities.

To name them severally

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Touching the Places and ſitting in the Parliament.

First, as I before ſaid, the *King* ſhall ſit in the mid place of the great Bench, and at his right ſide ſhall ſit the Arch-biſhop of *Canterbury*, the Biſhops of *London*, and of *Wincheſter*, and after them in order and courſe, the other Biſhops, Abbots and Priors; and on the left ſide the King, the Arch-Biſhop of *York*, the Biſhops of *Durham*, and *Carlile*, and after them, the Earls, Barons, &c. making alwayes a diviſion of place between the foreſaid degrees, and their places, that none ſit but amongſt Peers and his equals; and the Steward of *England* to look to this, unleſs the King will aſſign ſome other to it. At the Kings foot, at the right ſide ſhall ſit the Chancellor of *England*, and the Chief Juſtice of *England* and their fellowes, and their Clerks who are of the *Parliament*; and at his foot on the left ſide ſhall ſit the Treaſurer and Chamberlain, and Barons of the Exchequer, the Juſtices of the Bench,

and

Steward of England to look to this.

and their Clerks who are of the *Parliament*.

Touching the principal Clerks of the Parliament.

There are two principal Clerks of the *Parliament*, who shall sit in the midst of the Justices, who shall enroll all the Pleas and businesse of the *Parliament*: and we must know these two Clerks are not subject to every Justice, neither is every Justice in *England* Justice in the *Parliament*, neither have they of themselves Record in the *Parliament*, unlesse so far forth as new power shall be assign'd and given to them in the *Parliament* by the King and the Peers of the *Parliament*, and when they are assigned with other choice men of the *Parliament* to hear and determine divers Petitions and Complaints offered in *Parliament*; but these two Clerks are immediately subject to the King and his *Parliament* in common, unlesse perhaps one Justice or two be assigned to examine and amend their Inrollments: And when the Peers of the *Parliament*, to hear

hear and examine ſome Petitions by themſelves, then when they ſhall be of one mind and agreeing in rendring their judgments to ſuch Petitions, and the Proceſſe made concerning the ſame, and they ſhall give their judgment in full *Parliament*, ſo that the other two Clerks principally inroll all the Pleas, and all the judgments in the principall Roll of the *Parliament*, and ſhall deliver theſe Rolls to the Treaſurer before the going away of the *Parliament*, referring yet notwithſtanding to the ſame Clerks, one Tranſcript, and Counter-Roll thereof, if they will have it.

Theſe two Clerks, unleſſe they be in other Office under the King, and take of him ſuch fees as whereby they may live honeſtly and well, ſhall receive of the King every day a Mark, for their expences, to be divided between them by equal portions, unleſs they be at the Kings board, otherwiſe half a Mark a day, during all the *Parliament*.

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Touching the five Clerks of the Parliament.

The King ſhall aſſigne or appoint five skilful Clerks, the firſt whereof ſhall be Miniſter to, and ſerve the Biſhops. The ſecond, the Proctors of the Clergy, or the Clerks of the Convocation-houſe. The third, the Earls and Barons. The fourth, the Knights of the Shire. The fifth, the Citizens and Burgeſſes: and every one of them, unleſſe he be with the King, and take of him ſuch a fee, or ſuch Revenews that he may thereupon live honeſtly, he may take by the day two ſhillings of the King, unleſs he be of the Kings board; if he be, then to have but twelve pence: which Clerks ſhall write the doubts and anſwers, that they which ſhall be preſent at the *Parliament* make to the King, and at the *Parliament*, and communicate their Counſels unto them, whenſoever they will have them; and when they ſhall be at leiſure, they will ſend the principal Clerks to inroll them. 1 2 3 4 5

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Concerning Cases and Judgments which are hard.

De Casibus & Judiciis difficilibus.

Cum dubitat & difficilis casus, pacis vel guerne emergat, &c.

When a Cause of Truce, Doubt, or hard Case of Peace or Warre doth break forth, or otherwise the Case be referred in writing in full *Parliament*, and left it to be handled and disputed there between the Peers or equals; and if it be needful, let it be enjoyned by the King, or on the Kings part, if the King be not present to every degree of peers or equals; that evry degree it self may go thereto it self, & let that case be delivered to their Clerk in writing, and let them cause the Case to be recited before them, so that they do ordain & consider among themselves how, and after what sort they may better proceed, and more justly in that Case, as they for the person of the King, and their own persons, and the persons also of those whom they represent will answer before *God*; let them bring their answer and advice in writing, and let them proceed in all their Answers, Counsels and Advises heard of either side, or to and fro (as we said) according to better and more sound counsel and judgment; and when

when at the least the greater part of the *Parliament* doth agree. And if by the discord between the King and some Noblemen themselves, either the people may be weakned, or the Countrey may be troubled; so that it seem to the King his Councel, that it were expedient the busines be handled and amended by consideration of all the Peers of the Kingdom: Or if through Warre the King or Kingdom might be troubled; or if a hard Case do come before the Chancellour of *England*, or a Matter hard to be judged of shall be brought before the Justices, or such like: or if perhaps in such deliberations, all, or at least the greater part cannot agree, then the Earl that is Steward, the Earl that is Constable, and the Earl Marshall, or two of them, shall chuse five and twenty persons of all the Peers of the Kingdom; and three Proctors or Clerks of the Convocation-house, for the whole Clergy; two Earls and three Barons, five Knights of the Shire, five Citizens and Burgesses, who make five and twenty; and those five and twenty may chuse, if they will,

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will, twelve of them, and condescend to them; and those twelve chuse six, and condescend no fewer, unless licence be obtained from the Lord the King. And if the King consent to three, these three may condescend to two, and may descend to another, and so at length his Ordinance shall stand above the whole *Parliament*, and so condescend from twenty and five persons to one onely person, unlesse the greater number will agree and ordain, at the length, one person, as is said, shall agree for all, who cannot disagree from himself. This being observed, and also reserved, the King and his Councel, that they may examine and amend such Ordinance after them, which shall be written, if they know how to do it, and will perform it; yet so, as they do it there in full *Parliament*, and by the consent of the *Parliament*, and not contrary to the *Parliament*.

Touching the Order of deliberating busines in the Parliament.

The business for which the *Parliament* ought to be deliberated on, accord-

cording to the Calendar of the *Parliament*, and according to the Petitions, and affiled, no respect being had to any person; let him first handle his Cause that first propounded it. In the Calendar of the *Parliament*, there ought to be rehearsed all the businesses of the *Parliament*, and that after this order:

First, concerning Warre (if there be any Warre) and concerning the other businesses, touching the persons of the King, of the Queen, and of their Children.

Secondly, Concerning the common businesses of the Kingdom, as of making Laws, when there shall be lack of Law original, judicial, or executory of particular persons.

Thirdly, The business of particular persons, and that according to the Petitions offered, as is aforesaid.

Touching the dayes and houres of the Parliament.

The *Parliament* ought not to be held on the *Lords-day*, but on the other

ther days following, that day alwayes excepted, and three other, to wit, of *All Saints*, of *All Soules*, and of the *Nativity* of Saint *John Baptist*. It may be held, and ought every day to begin at one of the clock in the afternoon, at which hour the King is to be present at the *Parliament*, and all the Peers of the Kingdom. The *Parliament* ought to be held in a publick place, and not in a private or secret place. In the Holy-dayes the *Parliament* ought to begin at one of the clock, because of Divine-service.

Touching the Porters of the Parliament.

The principal Porter of the *Parliament* shall stand beneath the great Gate of the Monastery, Hall, or other place, where the *Parliament* is held, and must keep the door, so that none come into the *Parliament* but he which ought to come to the *Parliament*, or shall be called for the business which he followeth in *Parliament*; and it behoveth that the party have knowledge of the persons which

should

ſhould come in, ſo that none at all be denied entrance which is bound to be preſent at the *Parliament*. And the Porter ought, if it be needful, to have more Porters under him.

Touching the Cryer of the Parliament.

The Cryer of the *Parliament* ſhall ſtand without the door of the *Parliament*, and the Porter ſhall declare to him their Cryers.

The King was wont to aſſign Sergeants at Arms, to ſtand a great while together without the door of the *Parliament*, to make the door, ſo that none ſhould make thruſting or tumults about the door, by which the *Parliament* might be hindred, upon pain of taking of their bodies, becauſe of right the door of the *Parliament* ought not to be ſhut, but to be kept by Porters, or Kings Sergeants at Arms.

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Touching the ſtanding of them that ſpeak in the Parliament.

All the Peers of the *Parliament* ſhall ſit, and none ſhall ſtand, but when he ſpeaketh; ſo that every one of the *Parliament* may hear him. None ſhall enter into *Parliament*, nor go out of *Parliament*, but by one door: and whenſoever he ſpeaketh any thing which ought to be deliberated on by the *Parliament*, all they that ſpeak ſhall ſtand; the cauſe is, that he may be heard of the Peers; all which Peers are Judges and Juſtices, &c.

Touching the help and aid appointed for the King.

The King was not wont to require help or aid of his Kingdom, unleſs it were for Warre at hand, or for making his ſons Knights, or for marriages of his daughters; and then he ought to require ſuch help in full *Parliament*, and deliver it in writing to every degree of the Peers of the *Parlia-*

Parliament, and to answer the same in writing. And we must know that for the granting of such helps and aid, it behoveth that all the Peers of the *Parliament* agree. And we must understand that two Knights which come to the *Parliament* for the Shires and County out of which they come, have a greater voice in *Parliament* to grant, then the greatest Earl in *England*: and after the same manner the Proctors for the Clergy, or Clerks of the Convocation-house for one Bishoprick, have a greater voice in *Parliament*, if they all agree, then the Bishop himself. And this is true in all things which ought to be granted or denied to the party, or are to be done therein. And this is manifest, because the King may hold *Parliament* with the Commonalty and Commons of the Kingdom without Bishops, Earls, and Barons, yet so, as they be summoned to the *Parliament*, although no Bishop, Earl or Baron come according to their summons, because in times past, neither was there Bishop, Earl nor Baron, and yet even then Kings kept their *Parliament*: but it is

farre otherwise, on the other side; for though the Commonalty, to wit, Laity and Clergy were ſummoned to the *Parliament*, (as of right they ought to be) yet for ſome certain cauſes they would not come, as if they would pretend that the King did not govern them as he ought, and would in ſpeciality point out the Articles in which he miſgoverned them, as he ought not; that then that *Parliament* is utterly none at all, though the Archbiſhops, Biſhops, Earls, Barons, and all their Peers and equals were there with the King at it: and therefore all things which are to be affirmed or informed, granted or denied, or to be done by the *Parliament*, muſt be granted by the Commonalty of the *Parliament*, which ſtandeth upon three degrees or ſorts gathered together in *Parliament*, that is to ſay, the Proctors of the Clergy, the Knights of the Shires, the Citizens and Burgeſſes, who indeed repreſent the whole Commonalty of *England*; and next upon the whole Noblemen, becauſe every one of them is at the *Parliament* in his own proper perſon, and none other. *Touch-*

Touching the Abſence of the King in the Parliament.

The *King* is bound by all means poſſible to be preſent at the *Parliament*, unleſs he be detained or let therefrom by bodily ſickneſs, and then he may keep his Chamber, yet ſo as he lie not without the Mannour or Town at the leaſt, where the *Parliament* is held; and then he ought to ſend for twelve perſons of the greateſt and beſt of them, that are ſummoned to the *Parliament*; that is, two Biſhops, two Earls, two Barons, two Knights of the Shire, two Burgeſſes, and two Citizens to look upon his perſon, to teſtifie his eſtate, and in their preſence he ought to make a Commiſion, and give authority to the Archbiſhop of the place, the Steward of *England*, and Chief Juſtice, that they joyntly and ſeverally ſhould begin the *Parliament*, and continue the ſame in his name, expreſs mention being made in that Commiſſion of the cauſe of his abſence then; which ought to ſuffice and admoniſh the o-

The K. not to be ... y' Mad

not.

ther Nobles and chief men in the *Parliament*, together with the evident teſtimony of the aforeſaid twelve Peers of theirs; the reaſon is, becauſe there was wont to be a cry or murmur in the *Parliament* for the *Kings* abſence, becauſe his abſence is hurtful and dangerous to the whole Communalty of the *Parliament* and Kingdom, when the King ſhall be abſent from his *Parliament*; neither indeed ought he or may be abſent but onely in the caſe aforeſaid.

Touching the departure, or breaking up of the Parliament.

The *Parliament* ſhould not depart ſo long as any Petition made thereto hangeth undiſcuſſed or undecided, or at the leaſt to which there is not made a determinate anſwer: The Kings Majeſty being deſirous of his grace and favour to give the Subject redreſs of any injury, and not to ſuffer his people to go unſatisfied. None of all the Peers or Equals of the *Parliament* may or ought to depart alone from the *Parliament*, unleſs he have obtain-

obtained (and that in full *Parliament*) leave of the King, and of all his Peers or Equals, ſo to do; and that withall there a remembrance kept in the *Parliament*-roll of ſuch leave and liberty granted. And if any of the Peers or Equals, during the time of the *Parliament*, ſhall be ſick or weak, ſo as he is not able to come to the *Parliament*, then he muſt three days together ſend ſuch as may excuſe him to the *Parliament*: but if they come not, then let there be ſent from the *Parliament* two of his Peers or Equals to go and to certifie of his infirmity. And if there be any ſuſpicion, let theſe two Peers or Equals be ſworn that they ſhall ſpeak the truth concerning the ſame: and if it be found out that he did feign or counterfeit, let him atturney or appoint ſome ſufficient man before them to be preſent at the *Parliament* in his ſtead, if he will; neither can he be further excuſed if he be of found memory.

Departing of the Parliament

Ought to be in ſuch a manner: Firſt it ought to be demanded, yea and publickly proclaimed in the *Parliament*, and within the Palace of the *Parliament*, whether there be any that hath delivered a Petition to the *Parliament*, and hath not received anſwer thereto; if there be none ſuch, it is to be ſuppoſed that every one is ſatisfied, or elſe anſwered unto at the leaſt, ſo far forth as by law he may be.

Touching the Tranſcript or Writing out of Records, and Proceſſe made in Parliament.

The Clerk of the *Parliament* ſhall not deny to any man a Tranſcript or Copy of his Proceſs, or Proceſs in *Parliament*, if he do deſire it; and the Clerk ſhall take always for ten lines but one penny, unleſs haply that he that requireth the Tranſcript will give his faith, that he is not able to give it, and in that caſe he ſhall take nothing:

The

The Roll of the *Parliament* ſhould contain in breadth ten inches; and the *Parliament* ſhall be held in what place it ſhall pleaſe the King.

Of the degrees of the Peers or Equals of the Parliament.

The King is the Head, the beginning and the ending, and ſo he hath not any Peer or Equal.

The ſecond degree is of Archbiſhops, Biſhops, Abbots, &c. holding by Baronies.

The third is of Proctors of the Clergy, or Clerks of the Convocation.

The fourth is of Earls, Barons, and others, great and noble perſonages, as aforeſaid.

The fifth degree is of the Knights of the Shire.

The ſixth degree is of Citizens and Burgeſſes; and ſo the whole *Parliament* ſtands of ſix degrees: But we muſt know, that though any of the five degrees beſides the King ſhall be abſent, yet premoniſhed by ſummons, the *Parliament* is taken for full.

The Prerogative of the High Court of Parliament.

Of all the Courts of Judicature in *England*, the Court of Parliament is the chiefeſt and greateſt Councel of Eſtate, called and appointed by the Kings Majeſty, the Lords of the upper Houſe by perſonal Writs of Summons; And for the Commons Houſe, a general Writ is ſent to the Sheriff of every Shire or County, to call together all ſuch freeholders, (which can diſpend forty ſhillings yearly out of their own free lands at leaſt) for the electing two Gentlemen for Knights of the Shire: the like is directed to the Cinque Ports, for choice of their Barons, to each City, Burrow, Town, and Univerſity, for choice of two Burgeſſes, for every of them, to repreſent their ſeveral bodies in Parliament.

The time and place appointed.

This honourable Aſſemblies meeting is noticed by the Kings Majeſty to all his Subjects by Proclamation.

The

The end of calling this great Assembly, is either the disturbance of the Church by Heresie or Schism, danger of the Kingdom by War offensive or defensive, or for the relief of the Subject, disturbed in the Courts of Justice by ill customs, undue execution of the Laws, oppression, &c.

From this High Court lies no appeal, the determination thereof being presumed to be the act of every particular Subject, who is either present personally, or consenting by his Assignee, suffraged by himself.

This honourable Assembly consists of two houses, Upper and Lower. The upper is made up by the Lords Spiritual and Temporal, as Archbishops, Bishops, Dukes, Marquesses, Earls, Viscounts, Barons, no Member of that House being under the degree of a Baron; all which await the Writ of Summons, without which, no place, no vote there; and none may absent themselves after Summons without special proxy from his Majesty, whence he hath power to depute one of the said Members to give his voice for him in absence.

His Majesty, who by his Prerogative Royal hath the sole power, as of calling, so dissolving this honourable Assembly, sits in a Throne in the upper end of the House; on his right hand the Prince of *Wales*, on the left the Duke of *York*. The greatest Officers of the Kingdom, as the Lord Keeper, (who is the Speaker or mouth of the House) Treasurer, Privy-Seal, &c. have places some on the right, some on the left hand of the Throne: the form whereof is recited in the Statute of 31. *Henry* 8.

The Manner of giving voices in the Upper house is thus:

The Lords Spiritual and Temporal in their *Parliamentary* Robes, the youngest Bishop reads Prayers; those being ended, the Clerk of the House readeth the Bills, (being first writ in paper;) which being once read, he that pleaseth may speak either for, or against it.

The

The Manner of the Lower house is in this sort.

The first day each Member is called by his name, every one answering for what place he serveth; that done, they are willed to chuse their Speaker, who, (though nominated by the Kings Majesty,) is to be a Member of that House.; their election being made, he is presented by them to the King sitting in *Parliament*, where after his Oration or Speech, (the Lord Keeper approving in behalf of the King) he petitions his Majestie in behalf of the House: First, for their priviledges from all molestations during the time of sitting. Secondly, that they may enjoy freedom of speech. Thirdly, that they may have power to correct any of their own Members that are offenders. Fourthly, to have favourable access to his Majesty upon all occasions. The Speaker, (in behalf of the House of Commons) promising regardful respect, as befitting loyal and dutiful Subjects.

The

The use of the Parliament

Consists in abrogating old, or making new Lawes, reforming all grievances in the Common-wealth, whether in religion or intemporal affairs, setling succession to the Crown, Grants, Subsidies, *&c.* and in Sum may be called the great Physitian of the Kingdome or Republick.

The Speakers place in the House of Commons.

The Speaker sits in a Chair, placed somewhat high, to be seen and heard the better of all; the Clarks of the House sit before him in a lower seat, who read such Bills as are first propounded in their House, or sent down from the Lords, for in that point each House hath equal authority to propound what they think meet.

All Bills be thrice in three severall dayes read and disputed on, before put to question; and so good order is used in the House, that he that intends to speak to any Bill stands up bare-headed (for no more then one speaks

at

at a time) ſpeaking to the Speaker, not one to another, being againſt the rule of the Houſe: and he that ſpeaketh is to ſpeak no more that day to the Bill he hath ſpoken to, to avoid ſpinning needleſſy out of time; and their ſpeeches muſt be free from Taunts of their fellow-members that are of contrary opinion.

The Speakers office is, when a Bill is read, as briefly as he may to declare the effect thereof to the Houſe; and to Bils firſt agreed on by the Lords, and ſent to the Commons for aſſent: if they do aſſent, then are they return'd ſubſcib'd thus, *Les Communs ont aſſentus*: So likewiſe if the Lords agree to what is ſent to them from the Houſe of Commons, they ſubſcribe, *Les Seigneurs ont aſſentus*: If the two Houſes cannot agree (every Bill being thrice read in each Houſe) then ſomtimes the Lords, ſomtimes the Cõmons, require a meeting of ſome of each houſe, whereby information may be had of each others mind, for the preſervation of a good correſpondency between them, after which meeting for the moſt part, (though not alwaies) either part agrees to the Bill in queſtion. The

The assent or dissent of the Upper House, is each man severally by himself, and then for so many as he hath by proxy, they saying onely, content, or not content, and by the major part it is agreed to, or dashed. But in the Lower House no Member can give his voice to another by proxy; the major part being present onely maketh the assent or dissent. After a Bill is twice read there, and engrossed, (being disputed on enough, as conceived) the Speaker asketh if they will go to question; and if agreed to, holding the Bill up in his hand, saith, *As many as will have this Bill pass concerning such a matter, say Yea; and those that are against it, No*: and if it be a doubt which cry is bigger, the House is divided, the one part that agrees not to the Bill being bid to sit still; those that do, to go down with the Bill; so plurality of voices allows, or dashes. But no Bill is an Act of *Parliament*, Ordinance or Edict of Law, though both the Houses unanimously agree in it, till it hath the Royal Assent.

Touch-

Touching the Royal Assent.

When Bills are passed by both the Houses, they ought to have for approbation the Royal Assent, which usually is deferred till the last day of the Sessions, but may be given at any time during the *Parliament*: touching which, it hath been a question much debated, whether the Royal Assent given to any one Bill doth not *ipso facto* conclude that present Session. The question is of great consequence, for if thereby the Session be at an end, then ought every other Bill, although passed both the Houses, to be read again three times in either House, and to have the same proceeding as it had at first, as if nothing had been formerly done therein; so must it be done of all other Acts of the House. But the first Session of the first *Parliament* of King *James*, the *House* being then desirous to have a Bill passed forthwith by the Royal Assent, which should be security to the Warden of the Fleet, touching the delivery of Sir *Thomas Sherly* out of execution,

(for

(for it was then questionable whether he was subject to an action of escape) did agree that the giving of the Royal assent to one Bill or more did not dissolve the Sessions without some special Declaration of his Majesties pleasure to that purpose, 18. *Aprill* 1604. And likewise in the Journal *Anno* 1. & 2. *Phil* & *Mariæ*. 21. *Novemb.* that the King and Queen came on purpose into the Parliament-House to give their Assent to Cardinal *Pools* Bill; and upon question made, it was then resolved by the whole House, that the Session was not thereby concluded, but that they might proceed in their business notwithstanding the Royall Assent given.

At the giving of the Royal Assent, it is not requisite the King should be present in person, for by the expresse word of the Statute of 33. *Henry* the 8 *cap.* 21. that the Kings Royal Assent by his Letters Patents, under his great Seal, signed by his hand, and declared and notified in his absence to the Lords Spiritual and Temporal, and to the Commons assembled in Parliament, is, and ever was of as good

strength

ſtrength and force, as if the King had been there in perſon perſonally preſent, and had aſſented openly and publikely to the ſame; according to which Statute the Royal aſſent was given by Commiſſion *Anno* 38. *H.*8. unto the Bill for the attainder of the Duke of *Norfolk*.

The Manner of giving the Royall Aſſent.

The Royal Aſſent is given in this ſort; after ſome ſolemnities ended, the Clark of the Crown readeth the Titles of the Bills in ſuch order as they are in conſequence: as the Title of every Bill is read, the Clark of the Parliament pronounceth the Royall Aſſent, according to his inſtructions given him by his Majeſty in that behalf: if it be a publick Bill to which the King aſſenteth, he anſwereth *Le Roy le veut*; If a private Bill be allowed by the King, the anſwer is, *Soit fait comme il eſt deſiré*: If a publique Bill which the King forbeareth to allow, *Le Roy ſe aviſera*: To the Subſidy-Bill, *Le Roy remercieſes Loyaulx*, accepts his ſubjects benevolence; & *ainſi le veult*. To

To the general Pardon.

Les Prelates Seigneurs & Communs en ceſt preſent Parliament aſſemblées en nom de touts vons autres ſubjects remercient tres humblement voſtre Majeſtie, & prient Dieu vous doner en ſuite bon vie & longe.

The uſual Form of Summons for the PARLIAMENT.

The Form of the Kings Majeſties Writ to the Peers to aſſemble in Parliament.

CAROLUS &c. Chariſſimo conſanguineo ſuo E. Comit. D. Salut. Quia de adviſamento & aſſenſu Conſilii noſtri, pro quibuſdam arduis urgentibus negotiis nos, ſtatum & defenſionem regni noſtri Angliæ & Eccleſiæ Anglicanæ concernent. quoddam Parliamentum noſtrum apud Civitatem noſtram

Weſt-

Weſtmonaſterium *tertio die* Novembris *prox. futur. teneri ordinavimus, & ibid. vobiſcum ac cum Prælat. magnatibus & proceribus dict. Regni noſtri colloquium habere, tractare, vobis ſub fide & ligeanciis, quibus nobis tenemini, firmiter injungend. mandamus, quod conſiderat. dictorum negotiorum arduitate & periculis imminentibus, ceſſante excuſatione quacunque, dict. die & loco perſonaliter interſitis nobiſcum, ac cum Prælatis, magnatibus & proceribus prædictis, ſuper dictis negotiis tractatur. veſtrumq; conſilium impenſur. & hoc ſicut Nos & honorem Noſtrum, ac ſalvationem & defenſionem Regni & Eccleſiæ prædictorum expeditionemq; dictorum negotiorum, diligitis, nullatenus omittatis. Teſte me apud* Weſtmonaſterium *decimo octavo die* Septembris, *Anno Regni noſtri* 16.

The

The usual form of summons for the Parliament for the Commonalty, is not speciall, but a general Writ is directed to the Sheriff of every County or shire in *England* and *Wales*, in this form.

Rex vice. N. Salutem. Quia de advisamento & assensu Consilii nostri quibusdam arduis & urgentibus negotiis nos Statum & defensionem Regni nostri Angliæ, & Eccles. Anglicanæ concernent. quoddam Parliamentum nostrum apud Civitatem nostram West. 17 die Martij. prox. futuro teneri ordinavimus & ibidem cum Prælatis, magnatibus & proceribus dicti regni nostri colloquium habere & tractare, tibi præcipimus firmiter injungentes quod facta proclamatione in prox. com. tuo post receptionem hujus brevis nostri tenendum die & loco prædicto, duos Milites gladiis cinctos, magis idoneos & discretos cum prædict. &c. Et electionem illam in pleno com. tuo factam distincte & aperte, sub sigillo tuo & sigillis eorum qui electioni illi interfuerunt, nobis in Cancellariam nostram ad dictum diem & locum certifices indilate. Teste meipso, &c. vide Statut. 23. H. 6. c. 15.

The

The King to the Vicount or Sheriff greeting.

Whereas by the advice & assent of our Councel, for certain arduous and urgent affairs concerning us, the State & defence of our Kingdom of England, *and the* Anglican *Church, we have ordaind a certain Parlement of ours to be held at our City of the day of next ensuing, and there to have conference, and to treat with the Prelats, Great men, and Peers of our said Kingdom; We command and strictly enjoyn you, that making Proclamation at the next County Court after the receit of this our Writ, to be holden the day and place aforesaid; you cause 2 Knights girt with swords, the most fit and discreet of the County aforesaid, and of every City of that County, 2 Citizens; of every Borough 2 Burgesses, of the discreeter, and most sufficient, to be freely and indifferently chosen by them who shall be present at such Proclamation, according to the tenor of the Statutes in that case made and provided; And the names of the said Knights, Citizens and Burgesses so chosen, to be inserted in certain Indentures to be then made between you and those that shall be present at such Election, whether the parties so Elected be*

present, or absent, and shall make them to come at the said day and place, so that the said Knights for themselves, and for the County aforesaid, and the Citizens, and the Burgesses for themselves, and the Communalty of the said Cities and Burrows, may have severally from them full and sufficient power to do, and to consent *to those things which then by the favour of God shall there happen to be ordain'd by the Common-Councel of our said Kingdom concerning the business aforesaid, so that the business may not by any means remain undone for want of such power, or by reason of the improvident election of the aforesaid Knights, Citizens and Burgesses; But we will not in any case that* you *or* any other Sheriff of our said Kingdom shall be elected: *And at the day and place aforesaid, the said Election being made in a full County Court, you shall certifie without delay to us in our Chancery under your Seal, and the Seals of them which shall be present at that Election, sending back unto us the other part of the Indenture aforesaid affixed to these presents together with the Writ. Witness our self at* Westminster.

And

And concerning those of *Wales* to be summoned to the Parliament, reade the Statute thereof 27. *Hen.* 8. *cap.* 26. Intituled, *An Act for Laws and Justice to be ministred in Wales, in like form as it is in this Realm*; and also that other Statute made 35. *Hen.* 8. *cap.* 11. Intituled, *An Act for the due payment of Fees and wages of Knights and Burgesses of the Parliament, in Wales.* And thereof see in *Plowdens Comment.* 120. Sir *Richard Bulkleys* Case, and in *Dyer* 13.

And concerning those of the County Palatine of *Chester*, and of the City of *Chester* in this behalf, see the Statute made 34. *Hen.* 8. *cap.* 3.

At every County after the delivery of the Parliament-writ to the Sheriffs, Proclamation shall be made in the full County of the day and place of the Parliament, and that all men shall attend for the Election of the Knights for the same County for the Parliament. The which Knights must be resident within the same County whereof they are to be chosen, the day of the writ of summons of the Parliament, whereof every one ought to have 40 s.

To be resident in y County Quer.

of

of Free-hold within the said County beyond all charges; And such who have the greatest number of the said Electors shall be returned Knights for the same County. See 7. *Hen.* 4. *cap.* 12. 1. *Hen.* 6. *cap.* 1. 8. *Hen.* 6. *cap.* 13. and 10. *Hen.* 6. *cap.* 7.

The Sheriffe may examine every one of the said Electors upon the said Evangelists how much he may dispend by year, if he doubt of the value thereof, 8. *Hen.* 6. *cap.* 15.

The hour limited

The said Election shall be made in the full County between the houres of 8. and 9. before noone. 23. *Hen.* 6. *cap.* 15.

The said Knights shall be returned into the Chancery by Indenture, seal'd between the Sheriff and the said Electors, 8. *H.* 6. *c.* 7. 7. *H.* 4. *c.* 1. 23. *H.* 6. *c.* 6. *ut patet per breve suprà.*

Every Sheriff who doth not make a true return of such Election of knights to come to the Parliament, according to the Statute in that behalf made, that is to say, the Statute 8. *H.* 6. *c.* 7. shall forfeit 100l. to the King, and

100l.

100l. to the knight ſo choſen, who ſhall commence his Action within three moneths after the Parliament commenced. And if he ſo do not, and proſecute his ſuit in effect and without fraud, any other man who will may have the ſaid ſuit, for the ſaid 100l. as the Knight had, and coſts of ſuit alſo ſhall be awarded to the ſaid K. or any other who will ſue in his behalf, 23. *Hen. 6. Cap.* 15.

No Sheriffe ſhall be choſen for a Knight of the *Parliament* nor for a Burgeſſe: ſee the Book of Entries, 411. And at a *Parliament*, holden 38. *Henry* 8. It was admitted and accepted, that if a Burgeſſe of a *Parliament* be a made Mayor of a Town, or have Judicial Jurisdiction, or another is ſick, That theſe are Cauſes ſufficient to chooſe others. And ſo was done by the Kings Writ out of the Chancery, comprehending this matter which was in *Communi Domo Parliamenti*, 7. and 38. *Henry* 8.

In every VVrit of Parliament directed to the Sheriffe this Clauſe ſhall be inſerted; *Electionem tuam in pleno Com. tuo factam diſtincte & apertè ſub Sigillo tuo & Sigillis eorum qui Electioni illi interfuerunt, nos in Cancellariam noſtram ad diem & locum in brevi content. certifices indilatè, Henr. 4. ca. 15.*

The Sheriffe after the receit of the VVrit of Election, *&c.* ſhall deliver without fraud a ſufficient Precept under the Seale of every Major, and Bayliffe, or Bayliffes, where no Major is, of the City and Burrough within his County, reciting in his Precept the VVrit of Parliament; Commanding them by the ſaid Precept, if it be a City, to chooſe Citizens for the ſame City by the Citizens; and if it be a Burrough, then Burgeſſes, by Burgeſſes of the ſame to come to the Parliament; And that the ſaid Major, or Bayliffe, or Bayliffes, where no Major is, ſhall return lawfully the ſaid Precept to the Sheriffe,

Sheriffes, and those who made the Elections, and of the Names of the said Citizens, and Burgesses, by them so chosen, 23. *Henry* 6. *Cap.* 15.

The Sheriffe shall make a good return of his Writ, and of every return of the Major, and Bayliffe, or Bayliffes, where no Major is, to him made. And if the Sheriffe doe contrary to this Statute made for the Election of Knights, Citizens, and Burgesses to come to the *Parliament*, he shall incurre the pain of two hundered pounds to the King, and shall be imprisoned for one whole year, without Bayle or Mainprize. And the Knights for the County returned, contrary to the said Ordinances, shall lose their Wages by the Statute, 8. *Henry* 6. *Cap.* 7. and the Sheriffe shall lose one hundred pounds, to every Knight, Citizen and Burgesse, chosen in his County, to come to the *Parliament*, and not duely returned; or to any other who will sue in his default by Action of Debt,

with Coſts Expended in that Caſe: In which ſuite the Defendant ſhall not wage Law, nor be Eſſoyned, *Anno* 23. *Henry* 6. *Cap.* 15.

If the Major and Bayliffe, or Bayliffe, or Bayliffes where no Major is, do return others then thoſe who be choſen by the Citizens and Burgeſſes of the Cities and Boroughs where ſuch Election ſhall be made, he ſhall forfeit to the King fourty pounds, and ſo much to the Citizen or Burgeſſe choſen to come to the *Parliament*, and not duely returned by the Major or Bayliffe, or Bayliffes where no Major is, or to any other perſon who in default of ſuch Citizen or Burgeſſe ſo choſen, will ſue for it by Action of Debt, with Coſts expended. And they ſhall have a Writ of Debt for the ſaid fourty pounds, in which the Defendant ſhall not wage his Law, nor ſhall be Eſſoyned, 23. *Henr.* 6. *Cap.* 15.

Every

Every Knight, Citizen, or Burgeſſe, choſen and not returned, ſhall Commence his Action within three moneths next after the Commenceing of the ſaid *Parliament*. In which he muſt proceed effectually without fraud; And if he ſo doe not, any other who will ſue for it ſhall have the ſaid Action for the ſaid Forfeiture, and Coſts in the ſame expended: in which the Defendant ſhall not wage Law, nor ſhall be Eſſoyned, *Anno* 23. *Hen.*6. *cap.*15.

If any Knight, Citizen, or Burgeſſe, that ſhall be returned by the Sheriffe to come to the *Parliament*, be after ſuch Return put out, and another put in his place, he that is in his place ſo put out, if he take upon him to be a Knight, Citizen, or Burgeſſe, ſhall forfeit to the King one hundred pounds, and ſo much to the Knight, Citizen, or Burgeſſe, returned by the Sheriffe, and ſo afterwards put out; and the ſame Knight, Citizen, or Burgeſſe ſo put out ſhall have an Action of Debt againſt him ſo

put in his place, his Executors and Administrators, and shall Commence his Action within three Moneths after the beginning of the *Parliament*: and if he sue not as before, any other who will, shall have the said suit; in which the Defendant shall not wage his Law, nor shall be Essoyned; so that such Knights of the *Parliament* chosen, be a Knight, or such Esquire or Gentleman of the same County, who may be a Knight; and none to be such a Knight, who standeth in the Degree of a Yeoman, *Anno* 23. *Hen.* 6. *cap.* 15.

All Persons and Commonalties who shall be summoned to the *Parliament*, shall come as it hath been accustomed of the ancient time: and he that commeth not, having no reasonable excuse, shall be amerced and otherwise punished, as of ancient time hath been used, 5. *R.* 2. *Statut.* 2. *cap.* 4.

And

And it appeareth to be true which *Forteſcue* ſaith in his 18. *Cap. Foli.* 40. That Acts of *Parliament* and Statutes of *England* are not made onely by the Princes pleaſure, but alſo by the conſent of the whole Realme: So that of neceſſity they muſt procure the VVeal of the whole Realme, and in no wiſe tend to their hinderance; and it cannot be otherwiſe thought, but that they are repleniſhed with much VVit and VViſedome, ſeeing they are not ordained by the Advice of one Man onely, or of one hundered wiſe Counſellours, but of more then three hundered choſen Men; which agreeth with the ancient number of Ancient Senators of *Roma*.

No Baron, Knight, Citizen or Burgeſſe, who ſhall be choſen to come to the *Parliament*, ſhall depart untill that *Parliament* be ended or prorogued, if he have not licenſe of the Speaker, and of the Commons aſſembled in that *Parliament*; which licenſe ſhall be entred in the

Book of the Clarke of the Parliament appointed for the Commons Houſe, upon paine of loſing their wages, whereof all Counties and Burroughs ſhall be diſcharge, 6. *Hen.* 8. *Cap.* 16.

Concerning the due leavying of Knights Fees and Wages for the Attendance at the Parliament, See the Statute made 23. *Henr.* 6. *Cap.* 11.

Knights and Burgeſſes for the Parliament muſt take the *Oath of Allegiance*, and ſo ſhall Citizens, and Barons for the five Ports for the Parliament, before they doe enter into the Parliament Houſe, *Anno* 5. *Eliz.* Cap. 1. and they muſt alſo take the *Oath of Supremacy*, made 7. *Jacobi*, *Cap.* 6. Which two Oathes ſhall be taken before the Lord Steward for the Time being, or his Deputie, or Deputies.

Memorandum,

Memorandum, in the Statute made, *Anno* 25. *Henr.* 8. *Cap.* 19. Entituled, An Act concerning the submission of the Clergie to the Kings Majeste, is contained, That the Convocation is, and alwayes hath been and ought to be Assembled by the Kings Writ, The forme whereof is thus set downe by Doctor *Cowell* in his Interpreter *Verbo Proclam.* First, the King directeth his Writ to the Arch-Bishop of each Province for the Summoning of all Bishops, Deanes, Archdeacons, Cathedrall and Collegiate Churches, and generally all the Clergy of his Province, after their best Discretions and Judgements; assigning to them the time and place in the said Writ: Then the Arch-Bishops proceed in their accustomed course. One Example may shew both; The Arch-Bishop of *Canterbury*, upon his VVrit of Summons received, directeth his Letters to the Bishop of *London* as his Deane Provinciall: First, Citing him peremptorily, and then wil-

Example

ling him to cite in like manner all the Biſhops, Deanes, Arch-Deacons, Cathedrall and Collegiate Churches, and generally, all the Clergie of his Province, to the place, and againſt the day prefixed in the VVrit; but directeth withall, That one Proctor ſent from every Cathedrall, or Collegiate Church, and two for the body of the inferiour Clergie of each Dioceſſe, may ſuffice: and by Vertue of theſe Letters, authentically ſealed the ſaid Biſhop of *LONDON*, ſendeth the like Letters ſeverally to the Biſhops of every Dioceſſe of the Province, citing them in like manner, and commandeth them not onely to appeare, but alſo to admoniſh the ſaid Deanes and Arch-Deacons perſonally to appeare; and the Cathedrall and Collegiate Churches alſo of the common Clergie of the Dioceſſe, to ſend their Proctours at the day appointed in the VVrit: And alſo will them to certifie to the Arch-Biſhops the names of all and every

ry one ſo ſummoned by them in a Schedule annexed to their Letters Certificatory. The Biſhops proceede accordingly, and the Cathedrall and Collegiate Churches: As alſo the Clergie make choice of their Proctours; which done and certified to the Biſhop, hee returneth all anſwerable to his charge, (*Cave Lector*) for the Clergie of the Convocation-Houſe are no Part or Member of the *Parliament*, as you may ſee reſolved by the Lord *Richard*, Lord *Windſor*, and others, in the beginning of the ſixth Examination of Maſter *Philpot*, in the beginning of the Reigne of Queene *Mary*, in Maſter *Foxes* Booke of Martyres, *Folio* 1639. contrary to the Opinion of Doctour *Cowell*, *ubi ſuprà*. Nevertheleſſe, it is Enacted by the Statute, 8. *Henry* 6. *Capite* 1. That all the Clergie called to the Convocation-Houſe, by the Kings VVrit, and their Servants and Familiars, ſhall have and fully

though no members of Parl.

use every such Liberty and Defence, in comming, abiding, and going, as the Great Men, and Commonalty of the Land (to be called to the Parliament of the King) shall have.

And because mention is here made of the Priviledges appertaining to those of the Parliament-House, take here a word or two thereof.

The VVords of the Statute made the 11. *Henry*, 6. *Cap.* 11. are as followeth; The King willing to provide for ease and tranquillitie of those that come to his Parliament, hath Ordained and Established, That if any Assault or Affray to be made upon any Lord Spirituall, or Temporall, Knight of the Shire, Citizen, or Burgesse, comming to the Parliament, or the Counsell of our Soveraigne Lord the King, that then Proclamation shall be made in the most open place of the City or Town, where the affray was

was so made, by three several dayes, That the party that made such affray and assault yield himself before the King and his Bench, within a quarter of a year after the Proclamation so made, if it be in the time of the Term, or otherwise in the next day in the time of the Term following the said quarter. And if he so do not, that he be attainted of the deed, and pay to the party grieved his double dammages, to be taxed at the discretion of the Justices of the same Bench for the time being, or by inquest if it be needful; and make Fine and Ransom at the Kings will, and if he come and be found guilty by Inquest, examination, or otherwise, of such affray, or assault, then he shall pay unto the party grieved thereby his double dammages found by the Inquest, or to be taxed by the discretion of the Justices, and make Fine and Ransome at the will and pleasure of our Soveraign Lord the King.

Every

Every Knight, Citizen, Burgess, Baron of the Five Ports, or others, called in the Parliament of the King, shall have priviledge of the Parliament during the Sessions of Parliament, so that he that doth arrest any of them during that time, shall be imprisoned in the Tower by the Nether House of which he is, and shall be put to his Fine and the Keeper also if he will not deliver him when the Serjeant at Arms doth come for him by the commandment of the House whereof he is: See *Dyer* 60.

The servants tending upon their Masters during Parliament, who are necessary, and also such Officers as be attending upon the Parliament, as the Serjeant at Arms, the Porter of the door, Clerks and such like; and in the same manner of their Chattels and goods necessary, so that they shall not be arrested and taken by any Officer, if it be not in case of Felony or Treason: in the same manner, as the Judges and Ministers of other Courts shall have for their servants goods and chattels necessary. See *Cromptons Courts, fol.* 11.

for servants goods &c:

But

But the Parliament doth not give priviledge *Tempore vacationis, sed sedente curia.* See *Brooks Title Priviledge* 56. It appeareth that in the Parliament 31. *Hen.*6. in the vacation, the Parliament being continued by Prorogation, *Thomas Thorpe* the Speaker was condemned in a thousand Marks damages by an Action of Trespass brought against him by the Duke of *York*, and was committed to prison in execution for the same; and after when the Parliament was re-assembled, the Commons made suit to the King and Lords to have *Thorpe* their Speaker delivered for the good exploit of the Parliament: whereupon the Dukes Counsel declared the whole cause at large; whereupon the Lords demanded the opinion of the Judges, whether in that case *Thorpe* ought to be delivered out of prison by priviledge of Parliament; the Judges made this answer, that they ought not to determine the priviledge of that High Court of Parliament: But for Declarations of proceedings in Law-Court in the case where writs of *Supersedeas* for the priviledge of

Only the Rolls sitting

the

the Parliament to be brought unto them; they answer, That if any person that is a Member of the Parliament be arrested in such case as it be not for Treason or Felony, or for surety of the Peace, or for condemnation had before the Parliament; it is used that such persons be released, and may make Atturney, so as they may have their freedom and liberty freely to attend that Parliament: Hereupon it was concluded, that *Thorpe* should still remain in prison according to the Law, notwithstanding the priviledge of Parliament, and that he was the Speaker; which resolution was declared to the Commons by *Walter Moile* one of the Kings Serjeants at Law, and then the Commons were commanded in the Kings name by the Bishop of *Lincoln*, in the absence of the Archbishop of *Canterbury* then Chancellor, to chuse another Speaker.

It hath been much doubted, whether one taken in Execution during the Parliament may be set at liberty by Writ of Parliament, as is to be seen in

in the first of *Eliz.* 4. *fol.* 8. *a Dyer* 60. But at this day the Law is explained in that case by the Statute made 1 *Jacob. Cap.* 19. Intituled, *An Act for new execution to be sued against any who shall hereafter be delivered out of prison by priviledge of Parliament, and for discharge of them out of whose custody such prisoners shall be delivered.*

Concerning the upper House of Parliament; first it is observed, that thither come all Lords of the Parliament as well Spiritual as Temporal, and they are summoned by the Kings Writ also, but *Separatim*, and not by a generall Writ to the Sheriff of the County, as the Commons are summoned, who are of the Lower House of the Parliament; the form of which Writ is as followeth:

Carolus, &c. Charissimo consanguineo suo Comiti Oxford. Quia de advisamento & assensu Consilii nostri, pro quibus. arduis & urgentibus negotiis nos, stat. & defensionem regni nostri & Eccles. Anglic. concernent. quoddam Parliament

liament. noſtrum apud Civitat. noſtram Weſtmonaſterium 12. *die* Martii, *prox. futur. teneri ordinavimus, & ibidem vobiſcum ac cum Prælatis, magnatibus & proceribus dicti Regni noſtri colloquium habere & tractare, vobis ſub fide & ligeanciis, quibus nobis tenemini, firmiter injungend. mandamus, quòd conſiderat. dictorum negotiorum arduorum & periculis imminentibus, ceſſante excuſatione quacunque dicto die & loco perſonaliter interſitis nobiſcum, ac cum Prælatis, magnatibus & proceribus ſuprà dictis negotiis tractare, veſtrumq; conſilium impenſur. Et hoc ſicut Nos & honorem noſtrum, & rempublicam, & ſalvationem & defenſionem Regni & Eccleſiæ prædict. expeditionem q; negotiorum dictorum diligitis, nullatenus omittatis. Teſte me ipſo apud* Weſtm. 18. *die* Januarii *Anno Regni noſtri, &c.*

At the firſt day appointed by the King for the Parliament, uſually the King in perſon doth ride thither, as it were to open the door of their authority, attended by all the Lords Spiritual and Temporal in their Parliament-Robes;

Robes; but if the King be let *per ægritudinem*, or by other causes, his Majesty may command the adjornment of the Parliament to be held at some other day at his pleasure; as was done at the first day of the Parliament, holden the first year of the late Queen *Eliz.* as appeareth in *Dyer, Fol.* 20. 3. *a.* which Parliament was prorogued by Writ Patent under their entire great Seal and Signet, with the hand of the Queen; by which Book the printed Book of the Statutes may be corrected.

And the King may under his great Seal assign two or three of the Lords of the Parliament to supply his place in Parliament, if he be sick, or will not come for any other cause, *ut factum fuit Anno* 31. *Eliz.* At which time the Archbishop of *Canterbury*, The Lord Treasurer of *England*, and the Earl of *Derby*, were Commissioners under the great Seal appointed and assigned to represent her Majesties person in Parliament.

And they do sit one space lower from the Cloth of Estate in the *Parliament*-House. See *Cromp. Courts, fo.* 12. *a.*

By

By the Statute made *Anno* 23. *H*. 8. *Cap*. 21. it is thus defined: The Assent of the King by his Letters Patents under the great Seal of *England*, and signed with his hand, and notified in his absence to the Lords of the Parliament and Commons assembled in the Higher House, is and ever was of as good force and strength as if the person of the King had been there present, and had assented openly and publickly to the same. And such Royal assent as is aforesaid shall be taken for good and effectual to every intent without any ambiguity of Custome or usage to the contrary notwithstanding.

In this Court is attending the Lord Chancellor of *England*, or the Lord Keeper of the great Seal, or some other sage man as the King shall chuse; by whom the King doth shew his mind to the Lords. And he doth put them in remembrance of those things which are to be treated there before the Lords, who if he be no Baron, or Peer of the Realm, sitteth near the King behind the cloth of E-

his galact if no keer

state,

ſtate, and is as the Speaker of the Upper Houſe of Parliament.

In the 31. year of *Hen.* 8. *Cap.* 10. Intituled, An Act concerning placing of the Lords in the Parliament Chamber, and other aſſemblies & conferences of Counſel, it is Enacted as followeth: *Foraſmuch as in all great Councils and Congregations of men having ſundry degrees in the Commonwealth, it is very requiſite and convenient that an order be had and taken for the placing and ſetting of ſuch perſons as are bound to reſort to the ſame; to the intent that they knowing their places, may uſe the ſame without diſpleaſure or let of the Council: Wherefore the Kings moſt Royal Majeſty, although it appertaineth to his Prerogative Royal to give ſuch honor, places and reputation to his Counſellors and other his ſubjects as ſhall ſeem beſt to his moſt excellent Majeſty, He is nevertheleſs pleaſed and contented for an order to be had and taken in this his moſt high Court of Parliament, that it ſhall be Enacted by authority of the ſame, in manner as hereafter followeth:*

Firſt,

First, It is Enacted by authority aforesaid, that no person or persons, of what estate, degree or condition soever he or they be of (except onely the Kings children) shall at any time hereafter attempt or presume to sit, and have place at any side of the cloth of State, in the Parliamen:-Chamber, neither of th'one of the Kings Highness, nor on the other, whether the Kings Majesty be there personally present, or absent. And for as much as the Kings Majesty is justly and lawfully supreme head on earth of the Church of England, *under God; and for the exercise of the said most royal dignity and Office, hath made* Thomas *Lord* Cromwel, *and Lord privie Seal, his Vicegerent, for good and due ministration of Justice to be had and used in all causes and cases touching the Ecclesiastical Jurisdiction, and for the godly reformation and redress of all Errors, Heresies, and Abuses in the same Church; It is therefore enacted by authority aforesaid, That the said Lord* Cromwel, *having the said Office of Vicegerent, and all other persons who shall hereafter have the said Office of the grant of the Kings Highness, his*

Heirs

Heirs and Succeſſors, ſhall ſit and be placed as well in this preſent Parliament, as in all Parliaments whatſoever hereafter to be holden, on the right ſide of the Parliament Chamber, and on the ſame form that the Archbiſhop of Canterbury *ſitteth upon, and above the ſaid Archbiſhop and his Succeſſors; and ſhall have place in every Parliament to aſſent or diſſent, as other the Lords of the Parliament.*

And it is enacted, that next to the ſaid Vicegerent ſhall ſit the Archbiſhops of Canterbury *and* York; *and then next them on the ſame form & ſide the Biſhop of* London, *and next to him on the ſame form and ſide the Biſhop of* Dureſme, *and next to him, on the ſame form and ſide, the Biſhop of* Wincheſter; *and then all the other Biſhops of both Provinces of* Canterbury *and* York *ſhall ſit and be placed on the ſame ſide after their ancienties, as it hath been accuſtomed.*

And

And forasmuch as such persons as now have, or hereafter shall happen to have other great Offices of the Realm, that is to say, the Office of the Lord Chancellor, Lord Treasurer, Lord President of the Kings Councel, the Lord Privie Seal, the Great Chamberlain of England, the Marshal of England, the Lord Admiral, the Grand Master or Lord Steward of the Kings most honourable Houshold, the Kings Chamberlain, and the Kings Secretary, have not heretofore been appointed and ordered for the placing and sitting in the Kings most High Court of Parliament, by reason of their Offices; It is therefore now ordered, and Enacted by authority aforesaid, that the said Lord Chancellor, Lord Treasurer, the President of the Kings Counsel, and the Lord Privie Seal, being of the degrees of Barons, or above, shall sit and be placed as well in this present Parliament, as in all other Parliaments hereafter to be holden, in the left hand of the Parliament Chamber, on the higher part of the form on the same side, above all Dukes (except onely such as shall be the

the Kings Sonne, the Kings Brother, the the Kings Uncle, the Kings Nephew, or the Kings Brother or Sisters sons.

And it is also ordained and enacted by Authority aforesaid, That the great Chamberlain, the Constable, the Marshall, the Lord Admirall, the Grand Master or Lord Steward, and the Kings Chamberlain, shall sit and be placed after the Lord Privy Seal, in manner and form following, That is to say, every one of them shall sit and be placed above all other personages being of the same Estate or Degree that they shall happen to be of; That is to say, the Great Chamberlain first, the Constable second, the Marshall third, the Lord Admirall fourth, the Grand Master or Lord Steward fifth, and the Kings Chamberlain the sixth.

And it is also enacted by Authority aforesaid, That the Kings chiefe Secretary, being of the Degree of a Baron of the Parliament, shall sit and be placed above and before all other Barons, not having any of the Offices aforeremembred; and if he be a Bishop, that

then he shall sit and be placed above all other Bishops, not having any of the Offices above remembred.

And it is also ordained and enacted by authority aforesaid, That all Dukes not afore mentioned, Marquesses, Earls, Viscounts, and Barons, not having any of the Offices aforesaid, shall sit and be placed after their ancientry, as it hath been accustomed.

And it is further enacted, that if any person or persons which at any time hereafter shall happen to have any of the Offices aforesaid, of Lord Chancellor, Lord Treasurer, Lord President of the Kings Counsel, Lord Privy Seal, or chief Secretary, shall be under the Degree of a Baron of the Parliament, by reason whereof they have no interest to give any assent or dissent in the said house: That then in every such case, such of them as shall happen to be under the said degree of a Baron, shall sit and be placed at the uppermost part of the Sacks, in the midst of the Parliament-Chamber, either there to sit upon one form, or upon the uppermost sack, the one of them above the

the other in order as is above rehearsed.

Be it also enacted by authority aforesaid, that in all tryals of Treason by Peers of this Realm, If any of the Peers that shall be called hereafter to be triers of such Treason, shall happen to have any of the Offices aforesaid, that then they having such Offices, shall sit and be placed according to their Offices, above all the other Peers that shall be called to such trialls, in manner and form as is above mentioned and rehearsed.

And it is also enacted by authority aforesaid, That as well in all Parliaments, as in the Star-Chamber, and in all other Assemblies, and conferences of Counsel, The Lord Chancellor, the Lord Treasurer, the Lord President, the Lord Privy Seal, the Great Chamberlain, the Constable, the Marshal, the Lord Admiral, the grand Master or Lord Steward, the Kings Chamberlain, and the Kings chief Secretary, shall sit and be placed in such order and forme as is above rehearsed, and not in any other place, by authority of this present Act.

And in Sir *Edw. Cooke*, 11. *part. fol.* 1. The Case concerning priority of place in the upper House of *Parliament* was as followeth, at the *Parliament* held the 30. *Eliz.* The Case was thus:

Note. *Thomas Lawarre* Knight, Lord *Lawarre*, son and heir of *William*, sonne and heir of *George*, brother and heir of *Thomas*, Sonne and Heire of *Thomas* Lord *Lawarre*, exhibited his Petition to the Queen to this effect; That whereas *Thomas* the Great-grandfather was called to *Parliament* by Writ of Summons, 3. *Hen.* 8. and afterwards this *Thomas* the Great-grandfather dieth; after whose death *Thomas* his son was called to divers *Parliaments* by Writ of Summons; And afterwards by Act of *Parliament* 3. *E.* 6. for divers causes in the said Act mentioned, it was enacted, That the said *William* during his life should be disabled to claim and enjoy any dignity or superiority in any right, Estate, &c. by descent, remainder, or otherwise. And afterwards the said *Thomas* the son of *Thomas* dieth, after whose death the said *William* being disabled was not called to any *Parliament*

ment by Writ of Summons, till Queen *Elizabeth* called him to *Parliament* by Writ of Summons, and sits as youngest Lord of the *Parliament*: And afterwards he dieth, and now the said *Thomas* his son being cal'd to *Parliament* by Writ of Summons, sueth to the Queen that he may have place in *Parliament* of his Great-grandfather (*that is to say*) between the Lord *Berkley* & the Lord *Willoughby* of *Eresby*; And the said Petition was indorsed in these words; *Her Majesty hath commanded me to signifie to your good Lordships, that upon the humble suit of the Lord* Laware, *She is pleased that the matter shall be considered and determined in the House.*

Which Petition being read in the upper house of *Parliament*, the Consideration of this was referred and committed to the Lord *Burley*, Lord Treasurer of *England*, and divers other *Committees*, who at his Chamber at *Whitehall* heard the learned Counsell on both sides, in the presence of the two chief Justices, and divers other Justices; And two Objections were made against the Lord *Laware*; First, insomuch that his Father was disabled

by Act of *Parliament* to claim the Dignity: The Petitioner may not convey by him who was disabled, as Heir to his Great-grandfather, and by consequence he may not have the place of his Great-grandfather.

But it was resolved by all the Judges, That there was a difference between a Perfonary and a Temporary disability, and absolute perpetuall disability: As whereas one is attainted of Treason or Felony, this is absolute and perpetuall disability by corruption of blood, for any of his posterity to claim any hereditament in Fee simple, either as Heir to him, or any other: but disability by *Parliament* without any Attainder, to claim the Dignity for his life, that is personall disability for his life onely, and his Heirs after his death may claim as Heir to him, or any Ancestor to him, or any other Ancestor above him. The second Objection is, that the said *William* hath accepted new Creation of the Queen, which Dignity newly gain'd descendeth to the Petitioner, which may not wave; and for that the Petitioner may not have other

place

place then his father had.

To this it was answered and resolved, that the acceptance of a new Creation by the said *William* may not hurt the Petitioner, because the said *William* was at that time disabled, and in truth he was no *Baron*, but onely an Esquire; so that when the old and new dignity descended together, the old shall be preferred; which resolution was well approved by all the Lords Committees, which was accordingly reported to all the Lords of the Parliament, and allowed by them all; whereupon it was ordered by the Lords, that the Queen should be acquainted with this by the Lord Keeper; which was done accordingly. *Answ.*

Whereupon at the said *Parliament*, the Lord *Lavare* in his *Parliament* Robes, was by the Lord *Zouch*, supplying the place of the Lord *Willoughby*, within age at that time, and the Lord *Berkley* also in his Robes, brought into the House, and placed in his place (that is to say) next after the Lord *Berkley*; *Garter* King at Armis attending upon him, and doing his office.

In the upper Houſe of *Parliament* doe ſit the Juſtices upon ſacks of Wooll, *in medio Cameræ*; who are called thither by the Kings Writ, *quod perſonaliter interſitis nobiſcum ac cum cæteris de conſilio noſtro prædictis negotiis tractat. veſtrumque conſilium impenſur.* And this *negotia* be *Ardua & urgentia negotia Regni, &c.* And their Oath amongſt other things is, that they ſhall counſell the King truly in his buſineſſe; but they have no voice among the Lords.

Hau: no voic

If a Writ of Errour be brought in *Parliament* upon a Judgement given in *Kings Bench*, the Lords of the higher Houſe onely, without the Commons, are to examine the Errours; and that is by the Advice and Counſell of the Judges, who are to inform them what the Law is, and to direct them in their judgement; and if judgement be reverſed, then commandment is to be given to the Lord Chancellour to doe Execution accordingly. And ſo was done in the 7. of *R.* 2. in a VVrit brought in *Parliament* by the Deane and Chapter of *Litchfield*, againſt the Prior and Covent of *Newpor.*-*Pannell*,

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as appeareth by the Record. And if the judgement be affirmed, then the Court of K. Bench are to proceed to Execution of the judgment, as appears in *Howerdewes* Case, 1. *H.* 7. *Fol.* 19.

But it is to be noted, that in all such Writs of Errours, the Lords are to proceed according to the Law; and for their judgement therein, they are informed and guided by the Judges, and doe not follow their own Opinions or discretions. See *Egertons postnati, fol.* 23.

There doe also sit the Secretaries of Estate, who are to answer to such Letters or things passed in the Councel whereof they have the keeping; and with them the Master of the Roles: But they have no voice in *Parliament*, if they be not of the degree of a Baron.

Note by *Kirby*, Clerk of the Roles of the *Parliament*, It is thus in the Books of the Law, the 33. *H.* 6. *c.* 87. If a Bill come first to the Commons, and they doe passe it, then the use is to indorse it in this forme, *Soyt baylé à Seignewres*: And then if the Lords nor K. do not alter the Bill, then it shall be

inroled by the Clerk of the *Parliament*, and if the Bill passe, then it shall be inrolled; but if it be a particular Bill, then it shall be filed upon *filaces*, and that shall suffice, unlesse the party whom it particularly concerneth will sue to have it inrolled, that it may be inrolled to be sure.

Inrollments

All the priviledges which do belong to those of the Commons House of *Parliament*, *a fortiori* doe appertain to all the Lords of the Upper House; for their persons are not onely free from arrests during the *Parliament*, but during their lives; nevertheless the Original cause is by reason they have place and voice in *Parliament*: And this is manifest by expresse Authorities grounded upon excellent Reasons in the Book of Law.

Lords free from arrest alwais

And if a Baron, Viscount, Earle, Marquesse or Duke of *England* bring any Action reall or personall, and the defendant pleadeth in abatement of the Writ, That he is no Baron, Viscount, Earle, *&c.* and thereupon the Demandant or Plaintiffe pleadeth in abatement of the Writ, and taketh issue; This issue shall not be tried

by

by a Jury, but by the Records of the *Parliaments*, whether he or his Anceſtors, whoſe Heir he is, were called to ſerve there as a Peer, or one of the Nobility of the Realm. See Sir *Edward Cookes 6. part. 53. & 7. part. Fol. 17.*

In the ancient *Britains* and *Saxon* Kings dayes, the Archbiſhops and Biſhops were called to their *Parliaments* or other Aſſemblies of State; which was done not ſo much in reſpect of their Tenures, for in thoſe dayes all their Tenures were *Francke Almonage*, but eſpecially, because the Lawes and Counſels of men were then moſt currant and commendable, and had a more bleſſed iſſue and ſucceſſe, when they were grounded upon the fear of God, the root and beginning of Wiſedome. And therefore our wiſe and Religious Anceſtors called thither thoſe chief and principall perſons of the Clergy, who by their place and profeſſion, by their Gravity, Learning and Wiſedome might beſt adviſe them what was the Law of God, his acceptable will and pleaſure; that they might form their humane Lawes anſwerable, or at the leaſt not contrary,

Not.

trary or repugnant thereunto. Nevertheleſſe, ſhortly after the *Norman* Conqueſt, the Conquerour altered the Tenure of the Biſhopricks, not without ſome complaint and grief of the Clergy, as it is mentioned in *Matthew Paris*, *Anno* 1070.

Alteration of Biſhopricks by the Conqu.

And in the Conſtitutions of *Clarendon*, in the time of *Henry* 2. *Anno* 1164. It is expreſſed in the eleventh Article.

Thereby we ſee the preſence of the Biſhops in *Parliament*, in reſpect of their Baronies, *quouſque perveniatur ad diminutionem*, &c. for ſo even unto our times, when queſtion is had of the attainder of any Peer, or other in *Parliament*, the Archbiſhops and Biſhops depart the higher Houſe, and doe make their Proctors; for by the Decrees of the Church they may not be Judges of life and death. Ever ſince the Conqueſt the Archbiſhops and Biſhops have no title to have place and voice in *Parliament*, but only in reſpect of their Temporal Baronies.

not.

not.

And it is to be obſerved, that although of later times the uſe & manner of penning of Stat. is, that it is enacted by

by the Lords Spiritual and Temporal, and the Commons in the ſame aſſembled; yet the ancient form was not ſo, which you may ſee exemplified in Sir *Edw. Cokes* 8. *part*, *fol.* 19.

And good Acts of Parliament may be made, though the Archbiſhops and Biſhops would not conſent thereunto; for a Statute was made *Anno* 1196 by the King, the Barons and the Commons (*Clero excluſo*,) and this was at a Parliament holden at Saint *Edmundsbury*, in the reign of *E.* 1. as it is reported by *Jewel* Biſhop of *Salisbury* againſt *Harding*, *fol.* 62 c. And in the Province of *Mirton*, in the time of *H.* 8. a matter was moved of Baſtardy, touching the legitimation of Baſtards born before marriage; where it is ſaid, That the Statute did paſs intirely with the Lords temporal, againſt the wills of the Lords ſpiritual; which Statute is in the Books in the 20. year of *H.* 8. 3. *c.* 9.

And in 11. *R.* 2. *c.* 3. It is enacted, that the appeals, purſuits, accuſements, proceſſes, judgments & executions made & given in this preſent Parliament be affirm'd and eſtabliſhed, as a thing duly made

made for the weal and profit of the King our Soveraign Lord, and of all the Realm, notwithstanding that the Lords Spiritual and their Procurators did absent themselves out of the Parliament the time of the said judgment given, for the honesty and salvation of their estates; as it is contained in a protestation made by the Lords Spiritual and their Procurators delivered in this present Parliament.

Quer.

See *Kelbaucies* Book *fol.* 184. in the 7. *H.* 8. The Justices did say, that our Soveraign Lord the King may well hold his Parliament by him and his Temporal Lords, and by the Commons also, without the Spiritual Lords; for the Spiritual Lords have not any place in the Parliament-Chamber by reason of their Spiritualties, but onely by reason of their Temporal possessions.

The Soveraign power of this High Court of Parliament is this; That albeit the Kings Majestie hath many great priviledges and prerogatives, yet many things there are not effectual in Law, to pass under the great Seal by the Kings Charter, without

Parlia-

liament; as upon this point it was resolved by all the Judges in the Princes Case, That the Dukedom of *Cornwal, &c.* did not, nor could pass from *E.* 3. by his Charter made in Parliament, That his Son and Heir apparent, and to his Heirs in form, as it was intended and made in *Anno* 11. of his reign. But of necessity it was, and so was done by authority of Parliament; which Case is notable and worth the reading: See Sir *Edw. Cokes* 8. *part. fol.* and his 7. *part fol.* 7. *a.* The King by his Letters Patents may make a denizen, but cannot naturalize him to all purposes, as an Act of *Parliament* may do; for the Kings Charter cannot make any hereditable in this Case that by the common Laws cannot inherit. And herewith agreeth the 36. of *H.* 8. *Denizon Brook.* Noti

Bracton in the beginning of his second Book saith, *Nihil aliud potest Rex in terris, cum sit Dei minister & vicarius; quam quod de jure potest*: and a little after, *Ita q; potestas sua est Juris non injuriæ; & sicut sit author Juris,*

non

non debet inde injuriarum nasci occasio unde jura nascuntur.

And it appeareth in *Fitzherberts Natura Brevium*, 222. in the Writ *ad quam damnum*, that every grant of the King or gift hath his condition expressed or implied, as by the Law annexed to it; *Itaq; quod per donationem illam patria magis solito non oneretur seu gravetur.*

And therefore it was resolved by all the Judges 4. *Jacobi*, that they who dig for Salt-peter, may not dig within the Mansion-house of any subject, without his assent, for the manifest inconveniences that thereby may grow to the owner of the house. See Sir *Ed: Coke* 11. *part.* 82.

Also the Commission to be made, the purveyers for Timber for the Kings use, yet they cannot by that authority take Timber-trees growing upon any mans Freehold: for that is prohibited by *Magna Charta cap.* 21. *Nos nec Ballivi nostri nec alii capiemus boscum alienum ad castra vel ad alia agenda nostra, nisi per voluntatem cujus boscus ille fuerit.*

A Commission was awarded to take

take ſinging-boyes in Cathedral-Churches, or in other places where ſuch are inſtructed, for the furniſhing of the Kings Chappel; theſe general words by conſtruction ſhall have a reaſonable underſtanding, that is to ſay, ſuch children as be taught to ſing, thereby to acquire or get their livings, ſuch may be taken for the Kings ſervice; but the ſon of a Gentleman, or any other who is taught to ſing for his recreation, ornament, or delight, may not be taken againſt his will, or againſt the will of his parents or friends; and ſo it was reſolved by all the Judges and whole Court of Star-Chamber, 43. *Eliz.*

If a man be attainted of Felony or Treaſon, by Verdict, Outlary, Confeſſion, &c. his blood is corrupted: which is a perpetual and abſolute diſability for him or his poſterity to claim any hereditament in Fee-ſimple, either as heir to him, or any Anceſtor *Paramount* him; and he ſhall not be reſtored to his blood without Parliament: and the King may give to any attainted perſon his life, by this Charter of Par-

Parliament. See *Stamfords Pleas*, 195.

noti. For the King cannot alter the Common Law, or the general customes of the Realm, such as the descent of *Gavelkind*, *Burrough English*, or such like, without *Parliament.* See *Brooks Prerogative* 15. & 11 *H.* 4. c. 73.

rul. And it is set down for a rule, That if a King have a Kingdom by descent, there seeing by the Law of that Kingdom he doth inherit that Kingdom, he cannot change those Laws of himself, without consent of *Parliament.*

not. ij distinction. *Fortescugh* also saith in his 9. *cap. fol.* 25. 6. If the power of the King over his subjects were royal onely, and not politick, then he might change the Laws of the Realm, and charge his subjects with Tallages and other burdens without their consent. And that such is the dominion the Civil Law purports, when they say, *Quod Principi placuit legis habet vigorem.* But by the Laws of this Kingdom the King cannot by his Proclamation alter the Law; but the King may make Proclamation that he shall incurre the indignation of his Majesty

sty that withstandeth it. And by his absolute authority, the King may commit any one to prison during his pleasure; see *Stanford* 72. But the penalty of not obtaining his proclamation, may not be upon pain of forfeiture of his Goods, his Lands, or his Life, without *Parliament*. See *Crompton's Courts* 14. *a.* & 16. *b. Sed omnis non capit hoc verbum*; for they of another profession in Law say, that of these two one must needs be true, that either the King is above the *Parliament*, that is, the positive Law of the Kingdom; or else that he is an absolute King, *Aristot. lib. Polit. cap.* 16. And therefore, though it be a merciful policy, and also a politick mercy, not alterable without great peril, and to make Laws by the consent of the whole Realm, because no one party shall have cause to complain of a partiality; yet simply to bind the King to or by those Laws, were repugnant to the nature and constitution of an absolute Monarchy.

In some special cases there sometimes may be liking of subjects without

out land of poſſeſſion, as in the government which *Moſes* had over the children of *Iſrael* in the Wilderneſs, and in the caſe which Sir *Joh. Popham*, the late Lord chief Juſtice, did put in the Parliament; If a King and his ſubjects be driven out of his Kingdom by his Enemies, yet notwithſtanding he continueth ſtill King over his ſubjects, and they ſtill are bound to him by their bonds of allegeance, whereſoever they be: but he cannot be a King without ſubjects, for that were *Imperium imbellum, & Rex & ſubditi ſunt relativa.*

Maxim.

I believe *Solomon*, that ſaith, *Per me reges regnant, & Principes juſta decernunt*; and I make no doubt, but as God ordained Kings, and hath given Laws to Kings themſelves, ſo he hath authorized and given power to Kings to give Laws to their ſubjects; and ſo Kings did firſt make Laws, and then ruled by their Laws, and altered and changed their Laws from time to time as they ſaw occaſion, for the good of themſelves and of their Subjects.

By the premiſſes it appeareth, that

Acts

Acts of Parliament and Statutes are made in this High Court of Parliament by the King, with the consent of the Commons, or by the greater part of them; for so saith *Littleton*, 15 *E.4. fol.2.a.* Note

In the Parliament, if the greater part of the Knights of the Shire do assent to the making of an Act of Parliament, and the lesser part will not agree to it, yet this is a good Act or Statute to last *in perpetuum*: and that the Law of *Majoris partis* is so in all Counsels, Elections, &c. both by the rules of the Common law and the Civil. Rul.

In this Court of Parliament they do make new positive Laws or Statutes, and sometimes they inlarge some of them as unto them seemeth good: and it is good counsel, that in making of laws, *quoad ejus fieri possit, quam plurima legibus definiantur, quam paucissima vero Judicis arbitrio relinquantur* yet forsomuch as every considerable circumstance cannot be foreseen at the time of the making of the Law, for, *rerum progressus* Obser.

ostien-

ostendant multa quæ in initio præcaveri seu provideri non possunt. Therefore by the very intent of the makers of the Statute, they do many times leave to be supplied by the discretion of the executioner of the Law that thing which was not conveniently comprehended before-hand by the wisedom of the Authors of the same: for the expounding of the Laws doth ordinarily belong to the reverend Judges, and in case of greatest difficulty of importance to the High Court of *Parliament*. See *Plowdens Commentaries, fol. 363. a. 364, & 365.*

And the Judges do say, that they may not make any interpretation against the express words of the Statute, where the intent of the Makers of the law doth appear to the contrary, and where no inconvenience by the Statute shall ensue; for in such cases *A verbis legum non est recedendum.*

not.

But to exemplify all the severall kinds and forms of penning them, and the words of them taken and construed, sometimes by execution, sometimes by restriction, sometimes by implication, sometimes by disjunction,

ction, ſometimes a disjunctive for a copulative, ſometimes a copulative for a disjunctive, the preſent tenſe for the future, the future for the preſent; ſometimes by equity out of the reach of the words, ſometimes taken in a contrary ſenſe, ſometimes ſingularly, as *continens* pro *contento*, and ſuch like, will aſk a volume by it ſelf, and in my opinion is not incident to this Diſcourſe of the *Juriſdiction of the High Court of Parliament*.

ANCIENT

ANCIENT CUSTOMES OF *ENGLAND.*

BEing desirous for my own parcular satisfaction to search and inquire after reverenced Antiquity, it was my hap to light on an old Manuscript, which although in sound is *Saxon*-like, yet in some things it savours of the *Danish* matters, and of the ancient *British* Laws under the Rule and Government of the *Danes*: which writing writ in the *Saxon* tongue, I have translated into *English* word for word, according to

to the true sense and meaning thereof.

It was sometimes in the English Laws, that the People and the Laws were in Reputation: and then were the wisest of the People Worship worthy, each in his degree, Lord and Chorle, Theyne and Undertheyne. And if a Chorle so thrived that he had full five hides of his own Land, a Church and a Kitchen, a Bell-house and a Gate, a seat and severall offices in the Kings Hall; then was he thenceforth the Theyns right worthy. And if a Theyn so thrived that he served the King, and on his message, or journey rod in his houshold; if then he had a Theyne that him followed, who to the Kings expedition five hide had, and in the Kings Pallace his Lord serv'd, and there with his errand had gone to the King, he might afterward with his fore Oath his Lords part play at any need. And if an

Theyn so thrived, that he became an Earle, then was he right forth an Earle right worthy. And if a Merchant so thrived that he passed thrice over the wide Sea of his own craft, he was thenceforth the Theyns right worthy: And if a Scholler so thrived through learning, that he had degree, and served Christ, he was thenceforth of dignity and peace so much worthy as thereto belonged, unlesse he forfeited so, that he the use of his dignity might be taken from him.

Nobility from ye beginning of this Iland

These ruines of Antiquity make shew of a perpetuity of Nobility, even from the beginning of this Iland. But times are changed and we in them also. For King *Edward* the Confessor, last of the *Saxon* blood, coming out of *Normandy*, bringing in then the title of *Baron*, the *Theyne* from that time began to grow out of use; so as at this day men remember not so much as the names of them. And in process of time the name of Baronage be-

Ed: Conf.r brought ye titl: of Baron

began to be both in dignity and power so magnificent above the rest, as that in the name of the Baronage of *England* all the Nobility of the Land seem'd to be comprehended. As for Dukes, they were (as it were) fetcht from long exile, and again renew'd by King *Edward* the third. And Marquesses and Vicounts were altogether brought in by King *Richard* the Second, and King *Henry* the Sixth.

But our Kings descended of the *Norman* blood, together with the Crown of the Kingdom, granted an hereditary and successory perpetuity unto honourable titles, such I mean as are the titles of Earldom, and Baronies, without any difference of Sex at all; which thing I thought good to make manifest by the examples of the more ancient times. In the reckning up whereof, that I may better acquit & discharge my self, I shall in the first place desire the Reader to observe three things; First, concerning the disposition and inclination of our K. in the creating of the Nobility. Secondly, of the custome of transferring of Honors and dignities

by Families. And Thirdly, of the force of time, and the change and alteration of things. For why, our Kings (who in their Kingdomes bear alone the absolute rule and sway) are with us the efficient causes of all Political Nobility. The titles of named Nobility by our Custome have this natural and common together with the Crown it self, that the Heirs males fayling, they devolve unto the women, except in the first Charters it be in expres words otherwise provided; and yet so that regard is alwayes to be had of the time, which is every where wont to bear sway in the formality of things.

In this manner (*Harold* being overcome) *William* the first King and Conqueror having obtained the Soveraignty, according to his pleasure bestowed Dignities and Honours upon his companions and others; some of them so connext and conjoyn'd unto the Fees themselves, that yet to this day the possessors there of may seem to be inobled even with the possession of the places onely: as our Bishops at this day, by reason of the Baronies joyned unto their Bishopricks, injoy the Title

Title and Preeminence of Barons in the higheſt Aſſemblies of the Kingdome in *Parliament*: he gave and granted to others Dignities and Honors, together with the Lands and Fees themſelves. He gave to *Hugh Lupus* his Kinſman (a *Norman*) the Earldome of *Cheſter*, *Ad conquirendum & tenendum ſibi & Hæredibus, adeo liberè per gladium, ſicut ipſe Rex tenuit Angliam per Coronam.* To *Hanus Rufus* (then Earl of *Biritain* in *France*) and his Heires the Earldome of *Richmond*, *Ita liberè & honorificè, ut eundem Edwinus Comes antea tenuerat.* And the Earldome of *Arundell* (which *Harold* poſſeſſed) he granted with a Fee unto *Roger* of *Montgomery*. The firſt two of which Honours (the Heirs male fayling) by Women paſſed unto other Families: But the later Earldom, *Robert* the ſon of *Roger* being attainted of Treaſon, returned unto King *Henry* the Firſt, who gave the ſame in Dowry unto Queene *Adeliza* his Wife. But the Succeeding Kings more ſparingly beſtowed ſuch Dignities to be holden of them in Fee, granting for the better and more honourable

Together with Lands

maintenance of their stock and honor, the third part of the Pleas of the County (as they term it) which they in their Charters call *Tertium denarium*, or the third penny: so that he who received the third penny of any Province, was called Earl of the same; and so by custome the Women, the Heirs male fayling.

And if any Earl or Baron dying without sons had many Women his heirs, howsoever order was taken either by way of Covenant, or partition, concerning the lands and possessions, according to the common laws of the kingdom, yet the dignity and honor (a thing of it self indivisible) was still left to be disposed of according to the Kings pleasure, who in bestowing thereof usually respected the Prerogative of birth: by which right, K. *Hen.* the third after the death of *John* the Scot, dead without issue (other Lands and revenues being by agreement given to his three sisters) united the Earldome of *Chester* with the honour thereof unto the Crown. This is manifest in the Earldom of *Arundel*, (which after *Robert Belisme* son to the aforesaid *Roger Mount-*

Mountgomery, driven out by *Henry* the first) King *Henry* the second bestowed upon *William* of *Albine*, Qu. *Adeliza* his Mothers husband, and by a new Charter confirm'd it in fee, together with the Inheritance to him and his Heirs, with the third Pleas of *Sussex*, whereof he created him Earl. But *Hugh* the great Nephew of this *William* the first, being dead without issue, all the Earldome was divided among his four sisters; whose dignity and honour for all that, together with the Castle of *Arundel*, was by *Edward* the first at length given to *Richard Fitz-Alan* (the Nephews Son to *John Fitz-Alan*, and *Isabel* the second of the aforesaid sisters.)

I will now passe from *Henry* the third, to *Edward* the first his Sonne, there being for a time great dissention betwixt him and certain of his Nobility, viz. *Gilbert* of *Clare* Earl of *Hertford* and of *Glocester*, *Humphrey* of *Bohun* Earl of *Hereford* and *Sussex*, and Constable of *England*, and *Roger Bigod* Earl of *Norfolke*, Marshall of the Kingdom: and that all those Noblemen at length had lost their Earl-

doms and offices, they being reconcil'd to the King; afterward they again by new Charters received the same in this manner: The first of them to himself & *Joan* his wife, the same K. daughter, his second wife, for term of both their lives; and to the children to be by both of them begotten (his two daughters by his first wife being excluded.) This *Joane* (called *Joane* of *Acon*) bare unto her husband *Gilbert* a Son called also *Gilbert*; but she the second time secretly married unto one *Radulph* of *Mont Hermeri* (without the K. her fathers knowledge) and in her own right made the same *Radulph* Earl so long as she lived: but she being dead, *Gilbert* her Son by the aforesaid *Gilbert* succeeded again into the Earldom, *Radulph* his father in law being yet alive. In the same manner he restored to the aforesaid *Humphrey* of *Bohun* his Earldom and Constableship, unto whom he also gave in mariage *Elizabeth* another of his daughters, widow to *John* Earl of *Holland*: and to the third he restored the Earldom of *Norfolk*, and the Office of Marshal, with the yearly increase of a thousand Marks, upon condition if the

the heirs male of his body to be begotten fayled, both should return again to the King. At length this *Roger* died without issue, in the xxxv. year of him the said *Edward* the first, *viz.* in the last year of his Raign: and King *Edward* his Sonne, the second of that name, both by a new Creation and Charter, gave the Earldome and the Marshalship to *Thomas* of *Brotherton*, and his heir male.

These things I have propounded, thereby to shew how according to the diverse Dispositions of Princes, and change of Times, it hath by little and little varied in the first bestowing of Dignities and Honours: Of which thing, that new Law, and to them of Ancient time unknown, made by King *Edward* the first, seemeth afterwards to be of no small moment, whereby, he favouring certain private men, more carefull of their own surname, then of their Posterity, it was thought good by him to decree to make Fees to belong to men only. That law which I would in latine call *Gentilitium Municipale*, & with the Lawyers commonly call *Jus taliatum*;

and *Tallinbile*, or the Law of cutting off, for that it cutteth off Successions before generall, and restraineth them to the particular heirs of Families; wch seems to have given an occasion of change in the giving and bestowing of dignities and honors: For ever since that time, in the Creating of any new Earl, it is begun to be altered by expres words in all Charters, provided, that it shall be but for term of life onely, or descend unto the heirs males alone, the women being quite excluded. And for this I need not examples to prove; for why, the thing it self proveth the same. But the force and efficacy of this Law of Entail (or of cutting off) I have thought good thus in few words to declare.

And what I have said concerning Earles, the same may be said also of Barons created by Charters; but in Barons created by Rescripts, or Writs of Summons, yet resting upon most ancient custom not so.

For in them (one only excepted, sent forth to *Henry Bromflet*, wherein it was provided him, that same *Hen.* and his heirs male of his body lawfully begotten

gotten only to be Barons of *Vesey*) women, the heirs male failing, were not in ancient time forbidden or imbarred, but that they might be accounted, and by name stiled Honourable, with the preeminence of the dignity and calling of Barons: and after they had born a child, according to the ancient favour of our Lawes, (and the custom of the Kingdom) graced their Husbands also with the same honour, and with the same by Inheritance ennobled their Children, yea without the possessions of those places from whence the name of such dignities and honors may seem first to have risen. For Fees and Local possessions circumscribed by the Law, are translated and carried from one family unto another, and usually enrich their Lords and owners, the possessors thereof, but yet of themselves neither bring, nor take away Nobility, either Dative or Native. By example to manifest these things were but needles, and of little consequence; for why, all the most ancient Baronies, and the more ancient sort of the Barons at this day, are in this point on my side: and if any shall object against me in this point,

unto

unto him I will oppose either the force of time, or the careleſſeneſſe and lack of looking unto. But cuſtomes are ſtill like themſelves, nor muſt we detract from the authority of Kings, who although they have ſuch ſupereminent and undeterminate prerogatives, as that they may ſeem ſometimes to have of favour granted ſome things beſide the Law, yet it ſhall not appear them to have done, or yet ſuffered to have been done, any thing contrary to the cuſtom of Stocks and Families; ſo ſometimes they not regarding the ſolemnities of Ceremonies and Charters, have onely by their becks (that I may ſo ſay) ſuffered dignities and honours to be transferred, as in *Ranulph Blundevil* Earl of *Cheſter* and of *Lincoln*, to be ſeen, for the Earldom of *Cheſter* he permitted after the manner to deſcend to *John* the *Scot* his Nephew by *Maude* the elder of his Siſters: But the Earldom of *Lincoln* (the King thereunto conſenting) he yet alive delivered unto *Hawiſia* another of his ſiſters then married to *Robert Quincy*, by his Deed in the ſeventh year of *Henry* III. Theſe

These things I say were of old and ancient time, but at this day not so; for such is the force of time, and change in altering the forms of things, as that in eating out of the old bringeth still in new: so unto Earls, whom we said in ancient time to have been rewarded with the third peny of the Province whereof they were Earls, to maintain their honour and dignity, a certain summ of money is at this day yearly paid them out of the Exchequer, and they the Titles of such places, as wherein they have no jurisdiction, administration, or profit at all. Barons also, who, as the Fathers and Senators in ancient times among the *Romans* were chosen by their *Sestertia*, were in like manner wont to be esteemed and valued by Knights fees; for why, he which had and possessed thirteen Knights fees, and a little more, was to be accounted among the Barons, & are now more seldom times chosen for their vertue, then great wealth, & large possessions.

Neither is there any let, but that a man may hold and still retain the name and title of a Barony, the head

of

of which Barony (as they term it,) he hath afterward sold or alienated to some other common person.

In brief, our Kings Royal Majesty is always like it self, constant and the same, which having regard to the vertue, stock, wealth, and substance of any man (whereby he may with his counsels service profit the Commonwealth) may in every place freely give and bestow dignities and honours, sometimes chusing no more Barons then one out of one and the same family; the custome of the succession of the former and more ancient Baron, being still kept whole, and not in any hurt; as we see *Edward* the sixt wisely to have done in the family of the *Willoughbies* of *Ersby*, brought forth also another Barony of *Parham*. Wherefore we acknowledge our Kings to be the fountains of Political Nobility, and unto whom we may with thanks refer all the degrees of honours and dignities; wherefore I may not without cause seem to rejoice, on the behalf of our Nobility of Great *Britain*, which hath had alwayes K. themselves Authors, Patrons, Governors and Defenders

ders thereof; that when Lands, Fees and Poſſeſſions, ſubject to Covenants or agreements, are ſtil toſſed and turmoil'd with the ſtorms of the judicial Courts, and of the Common Law, it is onely unto the Kings themſelves beholding, and reſteth upon Heroical orders and inſtitutions proper and familiar unto it ſelf, ſo that,

Per titulos numerentur avi, ſemperq; renata
Nobilitate virent, & prolem fata ſequantur,
Continuum propriâ ſervantia lege tenorem.

By Titles great mens Anceſtors are known, the poſterity of whom enjoy the fame to their flouriſhing and everlaſting fame.

William the Conqueror, after the death of *Harold* having confirm'd the Kingdom to himſelf, laid theſe foundations of ancient and worthy Nobility, which afterwards by his ſucceſſors, according to the divers occurrents and occaſions, by little and little became at length in the reign of King

King *Henry* the third, and *Edward* the first, to appear a goodly and stately building, who having vanquished the *Welsh-men*, and contending with the *Scots* bordering upon them, for Principality and Soveraignty, entreating of all things concerning the Commonweal with the three States of the Kingdom (which consisteth of the Nobility, the Clergy, and Communalty) they themselves in their Royal Majesty sitting in *Parliaments*, appointed unto every man a preeminance, according to the place of his dignity; from whom especially all the Nobility of our age may seem to derive the divers and appointed degrees of dignities and honours.

The Nobility Clergy & Communalty are 3 States

The Nobility of our age may derive their degrees chiefly from Him. 3

Now to abbreviate much that might be writ in the continuance of this Discourse, I shall desire to straiten my purpose to some handsome conclusion, by the observation of the degrees and sitting of our *English* Nobility in the *Parliament*-Chamber, out of the Statute of the 31. of King *Henry* the Eight, who of his

his Princely wiſdom, with the full aſſent of the whole *Parliament*, cauſed a particular Act to be made for the placing of the Nobility in the Upper Houſe of *Parliament*; the effect whereof I have here recited:

That foraſmuch as in all great Aſſemblies and Congregations of men having degrees and Offices in the Commonwealth, it was thought fit and convenient that order ſhould be taken for the placing and ſitting of ſuch perſons as are bound to reſort to the ſame, to the intent that they knowing their places, might uſe the ſame without diſpleaſure, the places of which great Officers deſerve reſpect and admiration: and though meerly officiary, and depending on life, and the Kings gracious election, without any hereditary title or perfection, yet are they of ſuch high dignity, that all hereditary honour whatſoever under the degree of Royalty may (at all times) without diſparagement give them place and precedency: The placing of theſe moſt Noble and Great Officers both in the *Parliament*-Houſe, and other Aſſem-

Assemblies, is after this worthy and distinct order.

That is to say, the Lord Chancellor or Lord Keeper, the Lord Treasurer, the Lord President of the Kings Privy Councel, and the Lord Privy-Seal, being of the degree of Barons of the *Parliament*, or above, to sit on the highest part of the form, on the left side in the *Parliament*-Chamber; and above all Dukes, except those which are the Kings Sons, the Kings Brothers, his Uncles, his Nephews, or his Brothers or Sisters Sons: but if any of these four great Officers aforesaid shall be under the degree of a Baron, then he or they to sit on the uppermost part of the Sacks in the middest of the *Parliament*-Chamber, in such order as is afore shewed.

As touching the other, it was enacted that the Lord great Chamberlain, the Lord Constable, the Lord Marshal, the Lord Admiral, the Lord Steward, and the Lord Chamberlain of the Kings Household, shall be placed next to the Lord Privy-Seal, each of them above all other personages being

being of their own estates or degrees, and holding the same precedence, as they are formerly named.

Lastly, The principal Secretary being of the degree of a Baron, shall be rang'd above all Barons, (not having any of the former offices also) and this range and precedency to continue to all the great Officers in general which are before named, both in *Parliament*, in Councel-Chamber, in the Star-Chamber, at the trial of Peers, and in all other Assemblies whatsoever.

This in brief is the effect of the Statute, expressing the dignity and place of our most principal and supremest Temporal Officers; of which the first and chiefest is the Lord Chancellor, or Lord Keeper, who is said to be the Kings Conscience, his mouth, and confirmation, for by him all the rigours of the Law are bridled, the Kings will in grave Consultations reveled, and his gifts and prerogatives confirmed; before him all the great business of the Commonwealth is dis-

Offic. of the Chancellor

dispatcht, either at Councel-Table, in Star-Chamber, or in the Chancery, where he hath a principal voice and precedence: and lastly he hath the keeping of the great Seal of the Kingdom, in which is expresst a reputation so serious that all Subjects lives and Estates depend on the same.

The next in place is the Lord High Treasurer of *England*, to whose trust the Kings Treasure is committed; who is a man of that noble, worthy, sweet and generous disposition, of important confidence, of noble estimation, excellent in wisdom, and high in estimation, and to his wisdom and excellent judgment is referred the whole mannage of the Kings entire Estate, and the provident regard of the wealth and flourishing prosperity of all the Kings Subjects: he is the prime Officer Judicatory between the King and his Tenants, and hath dependence on the Council-Table, the Exchequer, and the Kings Royal House and Family.

Offic. of ye Treasurr

The

The next to these is the Lord President of the Kings most honourable Privy Councel, and is the chief man (next the King) belonging to that high and honourable Assembly, and hath in his power, under the Kings Majesty, the mannage of the priviledges of that Honourable Table.

The next is the Lord Privy Seal, an especial Ensign of credit belonging to this Kingdom, having custody and charge of the Kings Lesser Seal, which gives testimony of the Kings favours and bounty, but also making the way clear and accessible to the Great Seal, in which consists the strength of his Majesties confirmations; these first four great Officers are civil, and judicatory, as depending on the publick State: after whom follow six other, which are as well Military as Civil, having the managing of all matters of honour, and warlike proceedings.

The first of which is the L. Chamberlain of the kingdom, whose Office is of the greatest imployment in all publick Assemblies, as Coronations, Par-

Parliaments, Triumphs, or any Solemnity where the King himself rideth in person: which Office is not Officiary, but Honorary, depending by a feudal right unto the Noble House of the Earls of *Oxenford*.

After this is the Lord Constable of the Kingdom, who was the first and principal General under the King of all the land-Forces, and in all occasions of Martial affairs, had the principal nomination of Officers, and ordering of Munition for such imployment.

Then is the Lord Marshal of the land, a great and renowned Officer, in whom consists the solution of all differences in Honour, and dispensation of all things appertaining to the great or lesser Nobility. Next followeth the Office of the Lord Admiral of the Land who is the Kings General, and chief Commander at Sea, and hath care and charge of all his Majesties Royal Navy, and the censuring of all Marine causes whatsoever.

The

The next following is the Lord Steward of the Kings Houſehold, in whoſe truſt and government is repoſed the ordering of all the great and Noble Families, the diſcuſſion of all controverſies, the placing and removing of Officers, and the diſpoſing of all things therein for his Majeſties renown and dignity.

The laſt of theſe great Officers is the Lord Chamberlain of the Kings Royal Houſhold; unto whoſe great truſt, faith and integrity is committed the guard of the Kings Royal perſon, he hath the controll and commandment of all Officers, and others whoſe dependence is on the Kings perſon; and howſoever ſome would limit his rule above the Stayrs, yet it is over the whole Court, and in all places whereſoever the King is preſent; with many other priviledges which at this time cannot be fully recited.

After all theſe great Offices and Officers, I muſt neceſſarily adde one great Officer more, namely the Kings

Kings chief and Principal Secretary of Estate, who deserves a due respect by his High and Honourable Place, in regard he is so intimate and nigh to all affairs of his Majesty, either private or particular.

THE MANNER How STATUTES Are enacted in PARLIAMENT BY Paſsing of Bills.

Collected many yeares paſt out of the Journalls of the Houſe of Commons.

By *W. Hakewil* of Lincolnes Inne, Eſquire.

Together with a Catalogue of the Speakers Names.

LONDON,
nted for *John Benſon*, in St. *Dunſtans* Church-yard. 1659.

THE MANNER

How

STATUTES

Are enacted in

PARLIAMENT

BY

Passing of Bills.

Collected many years past out of the Journals of the House of Commons.

By the Hon. Grill of Lincolnes Inne, Esquire.

Perfected with a Catalogue of the Spanish Names.

LONDON,
Printed by [illegible] Dwyer, [illegible] Chancellor, 1651.

THE PREFACE.

HAving about thirty years past, the free use and perusall of all the Journalls of the Commons House of Parliament, from the first year of King *Edward* the Sixth, (being the most Ancient that they have) untill that time. And being unwilling to lose the advantage of that Opportunity, I read them all through, and whatsoever I

conceived to tend to the rule of the House, (wherein I was the better inabled to judge, in respect I had served in divers Parliaments, or Sessions of Parliament before that time) I reduced under apt Parliamentary Titles. Amongst the rest in this Chapter of passing of Bills, I was the more sedulous, because it is indeed the dayly and most proper worke of that House, wherein I have been carefull, not to propose any thing for a Rule, for which I have not vouched the Authority of the Journall. Those my Collections, I imparted many years since to some of my Friends (which being by the length of time multiplied into very many Copies) one of them, (and I thinke the falsest written of all the rest) was without my knowledge lately printed,

ted, and by the negligence of the Printer, the errours of the Copie were much increased, in so much that it pleased the Honourable House of Commons, (because it concerned their Orders) to take notice thereof, and take some order therein; by which I was induced to make this Publication, being otherwise very unwilling to have appeared in Print, and to have subjected my selfe to publique censure.

It were (in my poore Opinion) to be wisht, that the same course were taken by the House of Commons, as was by the Lords in 18. *Jacobi Regis*, who appointed a Committee for the collecting of the Rules and Orders of that House; which being Collected, they caused to be fairly ingrossed in

a Roll of Parchment, which by Order is alwayes read in the beginning of every Parliament, and resteth in the custody of the Clarke of that House, to be presently resorted unto upon all occasions, whereby much of their pretious time is saved, which otherwise perhaps would have been spent in the debating of the Rules and Orders of their House.

Another good rule.

Another excellent Order was made by their Lordships, that once every week, a Committee appointed for that purpose, that should peruse and perfect the Clarks notes, and that at the end of every Session, all the Orders of that Session should be ingrossed in vellam, and fairly bound up, which course first began in the time, when my worthy friend Master *Henry Elsynge*, that most indu-

industrious and able Gentleman, was Clark of that House, and hath continued ever since; whereas before that time all their Journalls (of which the most ancient are from the beginning of King *Henry* the eight) are in paper, as are those of the Commons House, but more fairly written.

If to this care of perfecting of the Journalls of the House of Commons, there were some provision made by that House, for the safe preserving of them, answerable to that which the Lords have, whose Clark hath a house belonging to him and his successors, where all their Records are kept to Posterity; the Journalls and Records of the Commons House, would not (as now they may) come to the hands of Executors or Administrators, and be removed to and fro in hazard of being lost, or corrupted

Another good order

and defaced, as is well known that some of them have been, and that in passages of the greatest moment, whereby the Common-wealth may receive great prejudice if it be not prevented, which my humble Propositions, I do (together with this Treatise) in all humility submit to the great wisdom of that Honourable Assembly, by whose favour this is published.

William Hakewel.

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The

The manner how STATUTES Are Enacted in *PARLIAMENT* By Passing of BILLS.

CHAP. I.

Sect. I.

By whom Bills are drawn and presented to the Parliament.

PUblique *Bills* are usually drawn by such of the House (*viz.* by the advice of Lawyers) as of themselves are earnestly inclined to the effecting of some publick

lick good, which requireth the aſſiſtance of ſome new Law, which being fair written in paper with wide lines, they are either by ſome Member of the Houſe publickly preſented to the Speaker in the Houſe, with ſome ſhort ſpeech ſetting forth the needfulneſs of a Law in that behalf, or are delivered in private to the Speaker, or the Clark of the Parliament, to be preſented to the Houſe at ſome time convenient. And it is in the choice of the party to prefer his *Bill*, Firſt, into the Lords Houſe, or the Houſe of Commons which he liſt, and as he ſhall think it may moſt advantage his cauſe.

Lawfull to grant a Bill to which Houſe one firſt.

Many times upon the motion of ſome one of the Houſe (wiſhing a Law were made for proviſion to be had in ſuch a caſe) a Committee is purpoſely appointed by the Houſe to draw a Bill to that effect; which being done, one of them preſents it to the Speaker.

This is uſuall in caſes of great moment and difficulty.

The Bill for Subſidies is uſually drawn by ſome of the Kings Councill, after the ſubſtance thereof, for the number of Subſidies & fifteens to be granted,

and

and the times of payment is first agreed in the House. The preamble thereof containeth the causes of the grant, which is usually drawn by some principall member of the House, being a selected Committees for that purpose.

Bills for the Revival, Repeal or continuance of Statutes, are usually drawn by Lawyers, being members of the House, appointed thereunto by the House, upon some motion to that purpose made, which is usuall at the beginning of every Parliament.

Private Bills are usually drawn by Councellors at Law, not being of the House, and sometimes by those of the House (and that for their fees) which howsoever it hath been held by some to be lawful, yet it cannot be but very inconvenient, seeing they are afterwards to be Judges in the same cause. not

A Bill hath been sent to the Speaker, signed by the hand of Queen *Elizabeth*, with speciall commandment to be expedited; but that is a rare case and very extraordinary: yet such was her Majesties favour to Sir *Thomas Perrot*, *in a Bill for his restitution in* blood,

blond, as it appeareth by the Clerks Journall 35 Eliz. 26. Martii.

Such Bills as being first passed in one House, are sent unto the other, are alwayes sent in Parchment fairly ingrossed.

Thus much touching the first drawing and presenting of Bills to the Parliament.

SECT. II.

Orders to be observed in preferring of Bills to be read.

Publique Bills are in due course to be preferred in reading and passing before private: and of publique, such as concern the service of God and good of the Church. Secondly, such as concern the Common-wealth, in which are included such as touch the person, revenue, or Houshold of the King, Queen or Prince, and they ought specially to be preferred in passing. Lastly, private Bills should be offered to be read and passed in such order as they were preferred.

1 *The Church &c:*

2 *The King &c:*

There-

There have been oftentimes orders in the House, that after nine of the clock, when usually the House groweth to be full, they should not be troubled with the reading of any private Bill: And towards the end of the Parliament, when there remaineth many Bills in the House undispatched, there hath been a speciall Committee appointed to take a survey of them, and to Marshall them by their titles in such order as they should think fit; they should be preferred to their passage, having respect to the importance of the matter which they concern.

It hath at some times been ordered, that every one that preferreth a private Bill, should pay five pound to the poor, which was done 43. *Eliz. towards the end of the Parl. when they were troubled with much business*, but it holdeth not in other Parliaments.

In the Treatise de modo tenendi Parliament, which I have seen exemplified under the great Seal of *Ireland*, in the sixth of *Henry* the fourth, testifying the same to have been sent into *Ireland* by *Henry* the second, for a form

of

Earl: held in Ireland by Hen: 2d

of holding Parliaments in that Kingdom, of which I have a Copy, there is (touching the order of preferring of Bills) this clause found.

Petitiones sunt affilate sicut deliberantur, & sic per ordinem leguntur & respondiantur, sed primo determinentur quæ ad guerram pertinent, postea de persona Regis & Reginæ & pueris suis, ac gubernationem eorum, & postea de communibus negotiis terræ; sicut est de legibus faciend. & emendend. (viz.) *originalibus judicialibus & executoriis post judicium reddit, & post singulares petitiones secundum quod sunt super filariis.*

But the Speaker is not precisely bound to any of these rules for the preferring of Bills to be read or passed, but is left to his own good discretion (except he shall be especially directed by the House to the contrary) and howsoever he be earnestly pressed by the House for the reading of some one Bill, yet if he have not had convenient time to read the same over, and to make a breviat thereof for his memory; the Speaker doth claim a priviledge to defer the reading thereof to some other time.

A Privil: g. to ye Speaker

And

And thus much touching the order of preferring of Bills to be read or paſſed. Now followeth touching the reading or paſſing of them.

SECT. III.

Touching the firſt reading of Bills.

THe Clark being uſually directed by the Speaker (but ſometimes by the Houſe) what Bill to read, with a loud and diſtinct voice, firſt readeth the title of the Bill, and then (after a little pauſe) the Bill it ſelf; which done (kiſſing his hand) he delivereth the ſame to the Speaker, who ſtandeth up uncovered (whereas otherwiſe he ſitteth with his hat on) and (holding the Bill in his hand) ſaith, *this Bill is thus intituled*; and then readeth the title, which done, he openeth to the Houſe the ſubſtance of the Bill, which he doth, either truſting to his memory, or uſing the help, or altogether the reading of his Breviat, which is filed to the Bill, ſometimes reading the Bill it ſelf, eſpecially upon the paſſage of

of a Bill, when it hath been much altered by the Committees, so that thereby it differeth very much from the Breviat.

Tertia Sessione 1. *Parliament. Iac. Reg.* It was ordered, that the Committees which amended the Bill, should likewise amend the Breviat in the principal matters for the ease and direction of the Speaker.

When he hath thus opened the effect of the Bill, he declareth to the House, that it *is the first reading of the Bill*, and delivereth the same again to the Clark.

Exception. The Bill containing the Kings generall pardon hath but one reading in the Lords House, and one below: The reason is, because the subject must take it as the King will give it, without any alteration: and yet many times exceptions are taken at the reading thereof, for that it is not so favourable as in former times.

The like of the Bill of Subsidies granted by the Clergy.

That day that the Speaker being approved by the King, commeth down into the Commons House to take his place,

place, the custom is to read for that time onely one Bill, left unpast the last Sessions, and no more, to give him seisin as it were of his place, 39 *Eliz.* 27 *Octo.*

The usuall course is to spend the morning before the House grow full in the first readings, and to defer the second or third reading till the House grow full.

At the first reading of the *Bill*, it is not the course for any man to speak to it, but rather to consider of it, and to take time till the second reading; yet it is not altogether without president, that a *Bill* hath been spoken for, and against upon the first reading, which is very seldom, and onely in cases where the matter of the *Bill* is apparently inconvenient and hurtfull to the Common-weale, and so not fitting to trouble the House any longer; but at the first reading, no man in ordinary course should speak to any one part of the *Bill*, or for any addition; for thereby it is implyed, that the body of the *Bill* is good, which till the second reading, doth not regularly come to the triall.

If

If any Bill originally begun in the Commons Houſe upon the firſt reading happen to be debated to and fro; and that upon the debate, the Houſe do call for the queſtion, it ought to be not *whether the Bill ſhall be ſecondly read*, for ſo it ought to be of ordinary courſe, but *whether it ſhall be rejected* in this ſort: *As many as are of opinion that this Bill ſhall be rejected* (ſay yea) *As many as are of the contrary mind* (ſay no) and the greateſt number of voices ſhall carry it, 43 *Eliz.* 17. *November. The Bill againſt unlawfull hunting*, 5 *Seſſ. Jac. Reg.* 25. *Octob.*

If a Bill comming from the Lords be ſpoken againſt, and preſſed to be put to the queſtion upon the firſt reading: the Speaker in favour and reſpect thereto, ſhould not make the queſtion for the rejection, as in Bills originally begun in the Commons Houſe upon the firſt reading, but ſhould firſt make the queſtion for the ſecond reading: And if that be denied, then for rejection. *This courſe was uſually held by Serjeant* Phillips, *when he was Speaker*. But uſually when any ſuch debate is upon the firſt reading

ing of a Bill, the Speaker doth forbear to make any question at all thereupon, except he be much pressed thereto, for that it were fit better to consider of it before it be put to such a hazard.

If the question for the rejection be made, and the greater voice be to have it rejected, the Clark ought to note it rejected in his journal, and so to indorse it upon the back of the Bill, and it shall be no more read; if the voice be to have the Bill retained, it shall have his second reading in course.

It is against the ordinary course, that the same Bill should be read more then once in one day, yet for speciall reasons it hath been suffered, that private Bills have been in one day read twice; *As in the aforesaid case of Sir* Thomas Perrot, *though it were a private Bill; so was it likewise done in the Bill for the assurance of Lands given by Master* Sutton *for charitable uses, because he was taken then extreme sick, and that it was doubtful, whether he might live while the Bill might have his passage in ordinary course.*

And it is likewise done sometimes, when

when the House lacketh other businesses wherein to imploy themselves, especially if the Bill be of no great importance, howsoever it is never but upon motion and special order.

When special Committees appointed for the drawing of some one special Bill, present the same ready drawn unto the House: it hath been often seen, that the same Bill hath been not only twice read, but ordered also to be ingrossed the same day, *as it was in the Bill against counterfeit Seals*, 23 Eliz. 16 Feb. *And in the Bill against disobedience to the Queen*, 4 Martii *of the same Parliament.*

A single President.

Neither is it without president, that a *Bill* hath been thrice read and passed in the same day; *as was the Bill of recognition of his Majesties title which came from the Lords*, 1 *Jac. Reg. Sess.* 1. but this is a president that standeth alone, and in that case it was resolved that the *Bill* might not be returned to the Lords without a copy first taken thereof by the Clark to be reserved in the Commons House.

SECT.

SECT. IV.

Touching the ſecond reading and committing of Bills.

A Bill may be preferred to be ſecondly read the next day after the firſt reading, but the uſuall courſe is to forbear for two or three dayes, that men might have more time to conſider upon it, except the nature of the buſineſs be ſuch that it requireth haſte.

After the Bill is ſecondly read, the Clark as before in humble manner delivereth the ſame to the Speaker, who again readeth the Title and his Breviat as he did upon the firſt reading; which done, he declareth that it was now the ſecond reading of the Bill, and then he ought to pauſe a while, expecting whether any of the Houſe will ſpeak to it; for before the Speaker hath ſo declared the ſtate of the *Bill*, no man ſhould offer to ſpeak to it; and then and not before is the time when to ſpeak.

If after a pretty diſtance of time, no man ſpeak againſt the Bill for matter

or

or form, he may make the question for the engrossing thereof, if it be a Bill originally exhibited into the Commons House.

So likewise if divers speak for the Bill without taking exception to the form thereof, he may make the same question for the ingrosing. The like question for the ingrosing ought to be made, if the greater voice be, that the Bill shall not be committed, for it were to no end further to delay the proceeding of the Bill, if there be no exception taken to the matter or form thereof, but upon the second reading, and after the Speaker hath delivered the state thereof, the House doth usually call for the committing of the Bill, and then if any man will speak against it, either for matter or form, he ought to be heard.

After the first man hath spoken, the Speaker ought to rest a while, expecting whether any other man will speak thereto, so ought he likewise to do after every Speech ended, when he perceiveth that the debate is at an end, he ought then to make the question for the committing thereof in this sort;

As

As many as are of opinion that this Bill ſhall be committed ſay (yea.)

And after the Affirmative voice given, *as many as are of the contrary opinion ſay* (no.)

And he ought by his ear to judge which of the voices is greateſt; if that be doubtful, the Houſe ought to be divided touching the manner, whereof there ſhall be more ſaid in another place.

If upon diviſion of the Houſe it appears that the numbers are equal, the Speaker hath the caſting voice upon all queſtions.

If it appear that the affirmative voice be the greater, then ought he to put the Houſe in mind touching the nameing of Committees; which is done in this ſort:

Every one of the Houſe that liſt may call upon the name of any one of the Houſe to be a Committee, and the Clark ought in his journal to write under the title of the Bill the name of every one ſo call'd upon, at leaſtwiſe of ſuch whoſe names (in that confuſion) he can diſtinctly hear; and this he ought to doe without partiality

either to those that name, or to the party named. But touching the naming of Committees, and their duties, more shall be said in another Chapter.

But he that speaketh directly against the body of the Bill, may not be named a Committee, for he that would totally destroy will not amend.

When a convenient number of Committees are named, then ought the Speaker to put the House in mind to name time and place, when and where the Committees may meet, which the Clerk ought likewise to enter into his journal-book; and when the House is in silence, he ought with a loud voice to read (out of his book) the Committees names, and the time and place of the commitment, that the Committees may take notice thereof.

After a Bill which is sent from the Lords hath been twice read, the question ought to be for the commitment; if it be denied to be committed, it ought then to be read the third time, & the next question ought to be for the passage, & not for the ingrossing, as it is where the bill originally begins in the Lower

Lower House; *for Bills which come from the Lords, come alwayes ingrossed.*

This question for the passage, should in ordinary course be then made when the Bill is denied to be committed, but not till the Bill have been read the third time.

If that question for passage be deferred till another day, it hath been much doubted whether it may then be offered to the passage; but upon debate of this point after many Arguments to an[illegible]o, *Anno* 27. *Eliz.* 18 *Februa. by the opinion of Sir* Francis Walsingham, *then one of the House, and by order of the whole House it was agreed it might be done.*

The Bil then in question was, *The Bill against fraudulent conveyances. Fol.* 85, & 86. *in the Clerks book for that year, so it was done* 1. *Sess.* 1. *Parliament.* Jac. *Regis, for the Bill of hunting.* But this Precedent is not so safe, for the House considering that oftentimes the Bill is denied to be committed upon utter dislike thereof, after it hath been long debated; and yet if that rule should hold, there may be a time picked out of great disadvantage to the House to

put it to question for the passage.

In the debating of Bills in the House no man may speak twice in one day, except the Bil be ofter read then once, and then a man may speak as often as the Bill is read; otherwise it is at Committees, or when in the House the debate ariseth upon some motion concerning the order of the House; but touching the manner of speaking, and what orders shall be observed therein, more shall be said elsewhere.

When the Committees have fully resolved touching the Bill, and the amendments thereof, one of them, by the consent of all the rest, ought to make report thereof to the House, openening the substance of the things amended, and the reasons thereof; which done, he ought to bring the Bill so amended to the Clark, and to stand by the Clark all the while that the Clark is reading of the amendments, and ought to help the Clark in reading of the same, in case it be difficult to be read; which falleth out very often, by reason of interlining or ill writing.

The Clark ought to read every amendment and interlining twice, that so

ſo it may have as many readings as the reſt of the Bill hath had; and very many times it will fall out that the interlining and amendments ſo read by the Clark, will of it ſelf (without reading of the clauſe going before or following) be no ſenſe, yet notwithſtanding, the Clark ought only to read the new amendments without medling with any of the reſt of the Bill; for it is intended that the reporter hath declared to the Houſe the reaſon of the amendment, and the connexion thereof to the reſt of the Bill to make it ſenſe.

And it hath ſometimes been permitted (when the amendments have been many and ill written) that the whole Bill hath been firſt read, and *then the alterations by* themſelves.

The Bill of hoſtile Lawes, 3. *Seſs.* 5. *Parliamen. Jac. Reg.* 4. *Junii*, 1607.

After the amendments thus read, the Clark ought to deliver the Bill unto the Speaker, who (*holding the ſame in his hand*) ought again to read the Title thereof, and to put the queſtion, whether or no it be the pleaſure of the Houſe that the Bill thus amended ſhall be put to the queſtion for ingroſſing, &c

then ought to pause a while, expecting whether any man will speak to it or no; for it is as free for any man to speak against the Bill at this time, though it hath passed the approbation of the Committees, as it was at the second reading before the same was committed.

And after the debate is ended, the Speaker ought to put the question for ingrossing.

If the greater number of voices be that the Bill ought not to be ingrossed, the Clerk ought to make an entry in his journal, that the same was dashed; and so ought he likewise to note upon the back of the Bill, and the day when. If the voice be to have it ingrossed, it is the office of the Clerk to do it.

It is alwayes to be observed, that when the Bill is ingrossed, the Clerk ought to indorse the title thereof upon the back of the Bill, and not within the Bill in any case.

So ought likewise such Bills as come from the Lords to have titles ingrossed upon the back of the Bill, and not within: In defect whereof, divers Bills coming from them, have been return-

returned to be amended, as may appear by the Journals, 27 *Eliz.* 19 *Decemb.* 13 *E.* 27 *May*, 39 *E.* 24. *Octob.* 4. *Seſſ.* 1. *Parliament. Jac. Reg.* 5. *Maii.*

The Bill as it is amended by the Committees ought to remain with the Clerk for his Warrant, and it is not an ordinary courſe to cauſe the Bill ſo amended to be fairly written for the better ingroſſing thereof; yet hath it been ſeen that a Bill ill written in the amendments hath been returned to the Committees to be fairly written, and by them preſented to the Houſe; and upon the reading thereof ingroſſed, 27 *Eliz. fol.* 91. *in the Journal.* At ſome times it hath been ordered that a Bill ſo written ſhould be proceeded in as a new Bill, 23 *Eliz.* 28. *Feb.* 27. *Eliz. fol.* 91. *in the Clerks book or journal.*

After a Bill hath been committed and is reported, it ought not in an ordinary courſe to be committed, but either to be daſhed or ingroſſed; and yet when the matter is of importance, it is ſometimes for ſpecial reaſons ſuffered: But then uſually the recommitment is to

the ſame Committees. *The Bill againſt the Marſhallſea, 3. Seſs. 1. Parliament. Jac. Reg. 30. April, 1607. was committed and reported, and Counſell heard at the bar.* Whereupon it was recommitted, and other Committees added who altered the former proceedings; and it was agreed that the former proceedings were waved, and the latter good.

SECT. V.

Touching the third reading of Bills.

SOme two or three dayes after the Bill is thus ordered to be ingroſſed, and is accordingly ingroſſed, it is offered by the Speaker to be read the third time for the paſſage thereof.

For the moſt part the Speaker putteth not any one Bill to the paſſage by it ſelf alone, but ſtayeth till there be divers Bills ready ingroſſed for the third reading; and when he hath a convenient number (which may be five or ſix, rather leſs then more) then

then he giveth notice to the Houſe that he purpoſeth the next day to offer up ſome Bills to the paſſage, and deſireth the Houſe to give ſpeciall attendance for that purpoſe; and then the day following he doth accordingly put them to the third reading. First, private Bills, until the Houſe be grown to ſome fulneſs, and then he offereth to be read the publick Bills which are ingroſſed.

It hath at ſome times been ordered, for the preventing of carrying of Bills with few voices, that no Bils ſhould be put to the paſſage untill nine of the clock, at which time the Houſe is commonly full, or ſhortly after. *A good Order*

When the Bill is read the third time, the Clark delivereth it to the Speaker, who reads the title thereof, & openeth the effect of the Bill, and telleth them that the Bill hath now been thrice read, and that (with their favours) he will put it to the queſtion for the paſſing; but pauſeth a while, that men may have liberty to ſpeak thereto; for upon the third reading the matter is debated afreſh, and for the moſt part it is more ſpoken unto this time

then upon any of the former readings.

When the argument is ended, the Speaker (*still holding the Bill in his hand*) maketh a question for the passage in this sort; *As many as are of opinion that this Bill should pass, say yea, &c.*

If the voice be for the passage of the Bills, the Clerk ought to make a remembrance thereof in his Journal; If otherwise, then his remembrance must be made accordingly. Upon the Bill thus passed (if it be the Bill originally exhibited in the House of Commons) the Clerk ought to write within the Bill on the top towards the right hand these words, *Soit baille aux Seigneurs.*

If the Bill passed be a Bill originally begun in the Lords House, then ought the Clerk to write underneath the subscription of the Lords, which always is at the foot of the Bill, these words,

A cest Bille les Communs sont assentus.

There are divers other forms of signing of Bills, sometimes when new Additions are made, sometimes when Provisoes are added; of which

more

more ample mention shall be made in the Chapter which treateth of *the duty of the Clerk.*

If the House see cause to amend any thing in a Bill originally begun in the Commons House upon the third reading thereof, and that the amendment thereof will not much deface the Bill, nor spend much time, the use is to cause the Serjeant to call in the Clerk that did engross it (being usually a servant to the Clerk of the House) and to cause him standing at the Table by his Master, in the presence of the whole House, to amend the same according to their direction. Sometimes if the amendments be but of a few words, it is done by the Clerk himself writing of a fair hand.

It hath sometimes been seen (which is rarely yielded unto, and onely in Cases where the Bill to be passed is of good importance) that if a question grow for the amendment of some Clause, or for the making of some addition thereunto, that it hath been recommitted for the amendment thereof: but then usually the Committees are appointed forthwith to withdraw themselves

themselves into the Cõmittee-chamber, and presently dispatch the same.

The Bill concerning Rites and Ceremonies at the third reading was referred to be further considered of, 14 El. 20. *Maii, and in* 43 El. 2. *Decemb. The Bill to avoid double payment of debts*, 13. *Sess.* 1. *Parliament.* Jac. Reg. *Mr.* Bathwests *Bill being ready for the question to pass, was deferred for eight days, that the other part might have notice, and then passed without further opening.* Quod nota.

No Bill upon the third reading, for the matter or body thereof, may be recommitted, as hath been said, but for some particular Clause or Proviso it hath been sometimes suffered; and that difference was taken for a rule in *The Bill for Sea-sands*, 4. Sess. 4. Maii 1610. *In the third Sessions of the first Parliament of King* James, 12. *die Maii, the Bill of clothing being ingrossed, and read the third time, exception was taken to the last Proviso thereof, whereupon after much debate it was recommitted*; wch is to be observed as a thing unusual after the third reading.

The next day it was returned again

gain by the Committees, with their opinions that they held it fit that a Proviſo therein ſhould be ſtruck out; whereupon the queſtion grew, whether the Proviſo being put to the queſtion alone, and rejected, the whole *Bill* ſhould not be daſhed thereby; at laſt reſolved no; whereupon the Proviſo being put to the queſtion and rejected, it was order'd it ſhould be raz'd out of the *Bill*, which was preſently done at the board by the Clerk, and the *Bill* was put to the queſtion, and ſo paſſed. The like in the *Bill concerning Wherrymen, the ſame Seſſion*, 18 *Maii* 1607.

It hath been much doubted, whether when a Bill is in debate for the paſſage, it ought not to receive the reſolution of the Houſe the ſame day wherein it is firſt offered to the paſſage; but there have of late been ſome Precedents, where the caſe being of ſome importance, & the debate growing long, the argument hath been put over till the next day, in which caſe he that hath alredy ſpoken to the *Bill* the firſt day may not again ſpeak the ſecond, no more then he may ſpeak twice in one day where the argument

is

is not deferred to another day.

If a Bill be rejected, the same Bill may not be offered to the House again the same Session; but if it be altered in any point material both in the body and in the Title, it may be received the second time.

not.

In the time of the reading of a Bill, the House should not be interrupted with any other business; and yet in 1 *Eliz.* 24. *Maii*, the House adjourned it self till the next day after the Bill for sealing Clothes was half read, onely to be present at the conference about Religion in *Westminster*-Abbey.

Sometimes the House conceiving much offence against some Bills, doth not onely order them to be rejected, but to be torne in the House; as it was done in the Bill *to avoid Aliens not being here for Religion*, 1 Eliz. 23. Jan.

It hath been seen that two Bills being apt to be joined together, have by order of the House, after they have been twice read, been ordered to be ingrossed as one Bill, and so passed; which is somewhat strange, for that both being made into one Bill, it is there-

thereby become a new Bill; nevertheless it was so done in two Bills *concerning Treason*, 13 *Eliz.* 26. *Apr.*

When a Bill is thrice read and passed in the House, there ought to be no further alteration thereof in any point. Nevertheless if it do appear that there be some apparent mistakings therein, either by false writing, or otherwise, the House upon notice thereof hath caused the same to be amended the day following, and reading the amendments three times, have again passed the Bill upon the Question; which is a rare precedent, yet was it so done 25 *Eliz.* 20. *Januarii*, *Popham* being Speaker, which is a memorable Case.

Anno 23. *Eliz.* 14. *Martii*, the Lords sent down a Bill *Touching the maintenance of the borders of* Scotland, the House proceedeth with another Bill to the same effect; the Lords complain that it is against order so to do, without praying a conference with them; which was spoken by the Lords at a conference, and answered by the Committees of the Commons House that they might lawfully so do.

Sect.

SECT. VI.

Touching Provisoes, Schedules, Amendments, and amendments of Amendments.

TOuching the offering and passing of Provisoes, the course is thus; If any man will offer a Proviso to a Bill originally begun in the Commons House, it ought to be offered in Paper, as long as the Bill it self is not ingrossed; but when the Bill is once ingrossed, it ought to be offered in Parchment, and not in Paper.

If a Proviso, or Schedule of addition be offered to any Bill coming from the Lords at first or second reading, it must be offered in Paper, and not in Parchment, though the Bill be a Bill ingrossed, for that it may receive much amendment at the Committee; and when 'tis together with the Bill returned to the Committees, there ought to be a special question made by the Speaker, whether the Proviso shall be ingrossed; if it be denied, he may put the Bill to the passage at the third reading without

out the Proviſo; if otherwiſe, then he ought to deliver the Proviſo to be ingroſſed, and ſome other day when the Proviſo is ingroſſed muſt put the queſtion upon the paſſage.

If it be offered at the firſt reading to a Bill begun in the Commons Houſe, which is ſeldom, it ought to be but once read at that time, and ſo filed to the Bill; If at the ſecond reading, it ought to be read twice, as the *Bill* it ſelf hath been, and ought to be committed together with the *Bill*; if it be offered at the third reading, the *Bill* being ingroſſed, it ought to be read three times before the queſtion be put for the paſſage of the *Bill*: but after every ſeveral reading thereof the Clerk ought to pauſe a while, to give men time to ſpeak thereto; many times upon the ſecond reading it is ſpoken unto, and ſometimes committed or amended at the board, ſometimes rejected without more reading: upon the third reading thereof the queſtion ought to be made whether or no the Houſe doth think fit to annex that Proviſo to the *Bill* read; which

queſtion

question ought to be made singly upon the Proviso, and afterwards the question ought to be made for passage of the Bill, together with the Proviso annexed. If the Bill with the Proviso annexed do pass upon the third reading, the Clerk ought to sign the same in this sort upon the Bill towards the right hand:

Soit baille aux Seigneurs avecque un provision annex.

And ought to sign the Proviso it self,

Soit baille aux Seigneurs.

The like rules here given for Provisoes are to be observed, when any Addition (which alwayes containeth in it another Clause) or Branch of the Bill is desired to be enacted, and offered by any of the House, with this difference; that whereas the Clerk in Case of a Proviso maketh mention of the Proviso annexed, he ought in this Case to write, *avecque un Schedule annex.* for that which containeth an Addition is called a Schedule. After a question

question propounded in the affirmative upon the passage of a Bill, and before the question for the negative part, a Proviso was offer'd, and judged to be received, 1 *Jacobi* 13. *Jun.* 1604. Such Bills as come from the Lords have their passage in the Commons House by three readings, as well as those that originally begun there; when they are committed, and the Committee see cause to make some amendment in them, they ought not to interline or raze, or make any other alteration in the Bill it self, as they do in their own Bills, but in a paper thereto annexed they ought to express in what line, and between what words they desire the amendments to be made, which they ought to return up to the House. If upon the report thereof the House shall approve the doings of the Committees, then ought the Bill with the Paper affixed to be sent to the Lords House, to be accordingly amended by the Lords, if they shall so think good. So likewise ought the Lords to do where they desire alterations in any Bill passed from the Commons House unto them. And in this Case after the

the amendments read three times, the queſtion ought firſt to be put, whether the amendments ſhall accordingly be aſſented unto. Secondly, for the paſſage of the *Bill*, with the amendments (if it paſs) the Clerk ought to ſign it in theſe words underneath the ſigning of the Lords at the foot of the *Bill*,

A ceſt Bille avecque les amendments les Communs ont aſſentus.

When the Lords ſend down amendments they ought to be read two times, and then if excepted unto, put to the queſtion for the committing. If they be approved by the Committees, and ſo reported, then ought the queſtion to be put for the amendment of the *Bill* accordingly.

Anno 29 *Eliz.* 25. *Decemb.* the *Bill touching Labourers*, paſſing firſt from the Commons Houſe, was ſent from the Lords with amendments in Parchments, and the Parchments formally indorſed, *Soit baille aux Communs*; to which exception being taken, there was much contention about it between the Houſes, and Precedents ſought up; and at laſt re-

reſolved it ought to be in Paper, without any indorſement at all: otherwiſe it is where there is a Schedule of additions, or a Proviſo annexed, for they ought alwayes to be ſent in Parchment; the Journal-book in this place handleth this point at large.

If there be cauſe to make alteration in ſome Proviſo or Schedule ſent from the Lords, the amendment ought to be tendered in Paper, and ſo paſſed to the Lords, 3 *Sef. Jac. Reg.* 30, *Junii.*

If beſides the amendments a Proviſo be added thereunto, or a Schedule of additions, there ought to be mention thereof made by the Clerk in the ſigning of the *Bill.*

If the Commons Houſe paſs a *Bill* ſent from the Lords with ſome additions by way of Schedule (which ever containeth ſome new Clauſe, or entire branch added to the *Bill*) or with ſome Proviſo to be added thereto, the ſame ought to be ſign'd as a new *Bill*, *Soit baille aux Seigneurs.*

For the omiſſion of which the Lords conceiving that they have not had

had warrant to proceed, thereupon have returned the same to the Commons House to be amended, and the same hath been reformed accordingly. *In the Bill against scandalous rumours*, 23 *Eliz.* 8. *Mart.*

If the Lords do absolutely disallow of any thing required by the Commons House to be put out, or of any addition or alteration to be made by way of amendment, the Bill can then have no further proceeding; for if the Commons say, *put out*, and the Lords say, *let it stand as it was*, the same being before determined by question in the Commons House, cannot be brought to the question again, 23 *Eliz.* 9. *Mart. The Bill of Scandalous Rumours, &c.* But if the Lords, for explanation of such a sentence as is in question, do adde words to the additions of the Commons, without putting out of any part of that which is required to be added or altered by the Commons, the same being set down in writing by the Lords, and sent to the Commons together with the Bill, if the Commons do allow thereof, they are to adde the words required by

the

the Lords Paper, and to insert the same into their own Paper, and so return the same to the Lords; who thereupon ought to enter it into their Bill ingrossed, and so the Bill hath his passage. The like in all points *mutatis mutandis*, in Bills originally begun in the Commons House, and sent to the Lords; but if to the Bill coming from the Lords, any Proviso or entire new matter be added by the Commons (because it is adjudged as a new Bill) and hath not been at the question in both Houses, the Lords may by their Paper require to have part thereof put out, or may offer additions thereunto; which being returned to the Commons, and they giving allowance thereof, they are accordingly to amend the same in their own house, without sending it back to be amended by the Lords; for *amendments ought always to be in that House from whence the thing to be amended originally proceedeth, though the directions for the amendments came from the other House*; and so *mutatis mutandis*, in Provisoes or other entire Additions required by the Lords to be added to

Not

any

any Bill proceeding from the Commons : And *it is held for a general rule, that neither House may of themselves put out any thing which they have before passed, otherwise then requested by the House which hath not passed the same : In the Parliament* 31 Eliz. *when Mr.* Snagge *was Speaker, it was usual, when either House desired the clear passage of any Bill sent unto them from the other House, in which they thought fit to make alterations, to acquaint the House from whom it came with the alterations which they intended to make, and to desire to know their willingness thereto, thereby to prevent the hazard of the Bill, if perhaps they should make alterations not approved of. In like sort they sometimes used conferences onely, to prevent the casting away of Bills for some small difference about the amendments. See for this the Clerks Book of the Parliament* 21 *Martii, and* 27 Elizab. 10. *Martii, the Bill against Jesuits : The like* 23. Eliz. 17. *Martii, the Bill against Seditious Rumours. Anno* 23. Eliz. 24. *Martii, In the Bill for the better government of* Westminster, *the*

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Commons at the request of the Lords do alter their own amendments. The like was done by the Lords at the request of the Commons upon a conference for that purpose, *In the Bill of Hostile laws 3. Sess. 1. Parl. Jac. Reg. 29. Junii 27. Eliz. 22. Feb.* The Lords by a Message without any paper sent unto them, have bin prayed by the Commons House to amend the sense of some of their amendments, that so the House might further proceed therewithall, which hath accordingly been performed, and then their amendments have been considered, allowed and returned, 23. *Eliz. 17. Martii, In the Bill touching Scottish orders.*

In the Bill against vagabonds, 13. *Eli.* It was resolved, that certain words required by the Lords to be put out, should not be put out of the Bill, but stayed still in the same, qualified with other words; with condition, that if the Lords should not agree to the said qualification, the House would not be bound by the said resolution; which was done of purpose to avoid the hazard of the Bill, in case the Lords should not agree thereto.

not the cause

When amendments of any Bill coming from the Lords are returned by the Committees, or otherwise added by the House, they ought presently to be read three times before they be put to the passage with the Bill. *In the Parliament* 13. *Eliz. at the third reading of a Bill which came from the Lords,* an addition in paper was by question affixed to it; the addition having been but once read, the Bill was put to the question, and the House divided upon the passage; the error being espied, after long argument thereupon, the additions were ordered to be read twice more, and the Bill was again put to the question, and passed: *this was the Bill against taking up of provisions within five miles of Oxford, which passed* 25. *May, in the Parliament, Anno* 2. *& tertio P. & M. The Bill for exactions at musters* had a Proviso annexed by the Commons House, and the Lords returned the Bill, desiring the Proviso annexed might be taken off, and a new devised by themselves put in the place thereof.

Anno 27. *Eliz.* 5. *Feb.* The Lords having made additions to a Bill passed from

from the Commons House, the Commons pray conference with them, and desire that they themselves may have leave to make a further addition to their own Bill, or that the Lords would be pleased to supply the same with an addition of theirs; which the Lords refused to do, because they found no such precedent, *Anno 27. Eliz. Fol. 81. in the Journal, The Bill against fraudulent conveyances* passed from the Lords, was upon the second reading refused by the House to be committed; whereupon the Lords craved a conference, and shewed it was a Bill which her Majesty called her Bill, drawn by her Councel, with the advice of her Judges, and therefore wondred at the proceedings of the House; and concluded, that they expected and desired that the House would take it into their further consideration; afterwards the House by a special Committee praying their Lordships to joyn in Petition to the Queen about matters of Religion, causing the messengers to stay in the painted Chamber, after a while sent out unto them the chief Justice and others, to tell them, that when they

received an anſwer from the Houſe touching the Bill of fraudulent conveyances, the Houſe ſhould have an anſwer touching the Petition.

An. 27. *Eliz.* 10. *Mar. Fo.* 130. *in the Journall*, to the Bill againſt Jeſuits, which paſſed from the Commons Houſe, there were ſome amendments deſired to be made by the Lords; the Commons by meſſage deſire the Lords to reform their deſired amendments in ſome points, which the Committees for the Lords thought could not be done by order; but the Commons Houſe reſolved it might be well helped by a Proviſo in the Commons Houſe; and choſe rather to take that courſe, then further to urge their Lordſhips therein.

Anno 27. *Eliz.* 13. *Mar. The* Bill *touching the Sabbath*, which upon divers conferences of the Houſes received divers additions, alterations and amendments of amendments, and by that meanes was much defaced, was ſent down by the Lords, and prayed by them that it might be new written, which was done; and ſo it paſſed again in both the Houſes.

Anno

Anno 25. *Eliz.* 31. *Mar. The Bill against Popish Recusants*, First, passing from the Lords, was returned with amendments; which the Lords assented to, and sent down the same again amended by them accordingly, and to a Proviso annexed thereto to be passed, if the House should think good, which was yielded to; and the Proviso being thrice read, was with the Bill passed accordingly, 6. *Apr.*

This is a very remarkable Precedent, *That a Proviso should be added by them who first passed the Bill, and not to have any Reference to any alteration or amendment inserted by direction from the other House.*

When amendments are desired by the Lords to a Bill past from the lower House, and thrice read, the question ought to be, whether the House will be pleased to admit of those amendments; and that being yielded unto, the Bill it selfe ought not againe to bee put to the question.

If it be resolved to allow the amendments, the alterations are usually made by the Clarks servants sitting

without the Parliament-door, according to the direction in paper annexed to the Bill; and the Clark is trusted with the examination thereof.

In the fourth Session of the first Parliament of King James, it was conceived by some of the Commons House, that by reason that Bills which are passed in both Houses, and oftentimes razed in either House, and no mention made any where of such razures lawfully made, that it might give occasion to persons ill-disposed to make razures in Bills past, much to the prejudice of the Commonwealth: it was therefore moved, that the L. Chancellor for the upper House, who supplies the place of Speaker there, and the Speaker in the house of Commons, should subscribe their hands to every Bill so razed; and that mention should be made upon the Bill of all the razures therein; but this motion was not further prosecured.

A good motion.

SECT.

SECT. VII.

Touching the sending of Bills *from one House to the other.*

WHen the Speaker hath in his hands a convenient number of Bills ready passed, as five or six, or thereabouts, he then putteth the House in minde of sending them up to the Lords, and desireth the House to appoint Messengers, who accordingly do appoint some one principall member of the House for that purpose, to whom the Bills are delivered in such order as he ought to present them to the Lords; which is done by direction of the Speaker, except the House be pleased to give special direction therein.

The order which hath usually been observed in ranking of them, is, First, to place them that came originally from the Lords.

Secondly, those that being sent up unto the Lords from the Commons House, were sent back to be amended.

Thirdly, publique Bills originally comming from the Commons House, and they to be marshalled according to their degrees in consequence.

Lastly, are to be placed private Bills in such order as the Speaker pleaseth.

Many times the House (with a purpose specially to grace some one Bill) sendeth it alone sometimes with a special recommendation thereof: The messenger for this purpose is usually attended by thirty or forty of the House, as they please, and are affected to the business.

In the Parliament *Anno* 31. *Eliz. Mar.* *A private Bill for the relief of one Thomas Haselridge* being passed the Commons House, was sent up only with four or five messengers; to which the Lords taking exceptions, returned the Bill, saying, they had cause to doubt that it passed not with a generall consent of the House, because it passed not graced with a greater number, and left it to the consideration of the House to send it back in such sort as was fit. The principall messenger which delivered the Bills to the Lords comming in the first rank

of

of his company to the Barre of the Lords House, with three congees telleth the Lords, that the Knights, Citizens and Burgesses of the Commons House have sent unto their Lordships certain Bills; and then reading the title of every Bill as it lieth in order, so delivereth the same in an humble manner unto the Lord Chancellor, who of purpose commeth to the Barre to receive them.

Bills sent from the Lords to the Commons House, if they be ordinary Bills, are sent down by Sergeants at Law, or by two Doctors of the civill Law, being Masters of the Chancery, and being attendants in the upper House, accompanied sometimes with the Clark of the Crown, an attendant there.

Bills of greater moment are usually sent down by some of the Judges assistants, there accompanied with some of the Masters of the Chancery, who being admitted entrance, do come up close to the Table where the Clark sitteth, making three congies; and there acquainting the Speaker, that the Lords have sent unto the House

certain Bills, doth read the Titles, and delivers the Bills to the Speaker, and so again departeth with three congies: when they are out of the House, the Speaker holdeth the Bills in his hands, and acquainteth the House, that the Lords by their Messengers have sent to the House certain Bills; and then reading the Title of every Bill, delivereth them to the Clark to be safely kept, and to be read when they shall be called for.

Bills originally preferred to the Lords House, have such proceeding in that House in all points, as Bills preferred to the Commons House have there; onely when any question is made in the Lords House, the triall thereof is by saying, Content, or not content; and if that be doubtfull, then by telling the Poles, without dividing the House.

No dividing in the upper House

SECT.

SECT. VIII.

Touching the Royall Assent.

WHen Bills are thus passed by both the Houses, upon three several readings in either House, they ought (for their last approbation, that so like to silver, they may be seven times purified) to have the Royall Assent, which is usually deferred till the last day of the Session: But it may be given at any time during the Parliament; touching which it hath been much doubted, and oftentimes debated, whether the Royall Assent given to any one Bill, doth not *ipso facto* conclude that present Session; which question is of great consequence; for if thereby the Session be at an end, then ought every other Bill not having the Royall Assent (though it hath passed both the Houses) to be again there read three times in either House, and to have the same proceedings as at first, as if nothing had been formerly

ly done therein; so must it be of all other Acts of the House. But *in the last Session of the first Parliament of King* James, *the House being then desirous to have a Bill to be forthwith passed, declared, that the Royall Assent to one Bill or more did not dissolve the Session, without some speciall Declaration of his Majesties pleasure to that purpose*, 8. Aprill 1604. in the Journall.

So likewise it appeareth by the *Journall* 1. & 2. *Phil.* & *M.* 21. *November, that the King and Queen came of purpose into the Parliament House to give their Assent to Cardinal* Pooles *Bill*, And upon question made, it was then resolved by the whole House, that the Session was not thereby concluded, but that they might proceed in their business, notwithstanding the Royall Assent given; but for more security it is usuall to insert a Proviso to that purpose.

At the giving the Royall Assent, it is not requisite that the King be present in person; for by *express words of the Statute of* 33. *of Hen.* 8. *Ca.* 21. *The Kings Royall assent by his Letters*

ters Patents under the Great Seal, ſigned by his hand, and declared and notified in his abſence to the Lords Spiritual and Temporal, and to the Commons aſſembled in the higher Houſe, is and ever was of as good ſtrength and force as though the King had been there perſonally preſent, and had aſſented openly and publickly to the ſame; according to which Statute the Royal Aſſent was given by Commiſſion, *Anno* 38. *H.*8. *unto the* Bill *for the Attainder of the Duke of* Norfolk, and very oftentimes ſince.

The Royal Aſſent is given in this ſort; After ſome ſolemnities ended, of which mention ſhall be made in the Chapter which treateth of the concluſion of the Parliament, the Clerk of the Crown readeth the title of the *Bills* in ſuch order as they are in conſequence; after the title of every *Bill* is read, the Clerk of the Parliament pronounceth the Royal Aſſent, according to certain inſtructions given him from his Majeſty in that behalf.

If it be a publick *Bill* to which the King aſſenteth, the anſwer is, *Le Roy le veult*.

If

If a private *Bill* allowed by the King, the answer is, *Soit fait comme il est desire.*

If a publick *Bill* (which the King forbeareth to allow) *Le Roy se aviser-a.*

To the Subsidie-*Bill*;

Le Roy remercy ses loyaux Subjects, accept leur benevolence, & aussi le veult.

To the General Pardon,

Les Prelates, Seigneurs & Communs en ceste Parliament assembles au nom de toutes vous autres subjects remercient treshumblement vostre Majesty, & prient Dieu vous donner en sante, bone vie, & longe.

And thus much concerning passing of *Bills* according to the modern practice: in ancient times the practice was much differing, as elsewhere shall be declared; but that ancient order, as it was nothing so curious as this, so was it not so safe for the Subject, as by comparing both together will easily appear.

A

A Report of divers memorable passages between both Houses in the Parliament 18 Eliz. *concerning the adding of a Proviso by the Commons unto a Bill sent to the Lords, ingrossed, and signed by the Queen, and passed by the Lords, for the restitution in blood of a certain Lord, and sent down by the Lords to the House of Commons.*

A Noble Lord, whose father was attainted of murder, (and thereby his bloud corrupted) made suit to the Queen to be restored in bloud by Parliament; which she inclined unto, and in declaration of her good liking thereof, signed his *Bill* ingrossed, which passed the Lords House, and was sent down to the Commons.

The *Bill* upon the second reading by some was impugned, through mistake of the person, and by some others, for that there wanted a Proviso for Purchasers from his Father and other Ancestors.

To the first it was answered, that see-

seeing her Majesty had signed the *Bill*, no doubt she was satisfied touching the person; and he being a young Noble man, there was great hope of him.

To the second, that if the saving (which was already in the *Bill*) were not sufficient, there might be other provision.

The *Bill* was committed, and the Committees thought to adde a Proviso to barr the Lord, that he should not take advantage of any errors in any Fine, or other conveyance by his Father or Ancestors, but should be in that case as though his bloud were not restored, in which state he can bring no Writ of Error: the occasion of which Proviso grew chiefly, for that the Lords had within few days before in this Session dashed a *Bill* that passed in the Commons House for the helping of such errors; whereupon they thought it dangerous to give that scope to any man that should be restored in bloud; and therefore they added such a Proviso both in this *Bill* and other *Bills* of like kind.

The

The ſaid Lord endeavoured by his Counſel to ſatisfie the Committe, that the ſaving in the Bill was ſufficient without a new Proviſo; but they being not ſatisfied therewith, he procured a meſſage from the Lords to the Commons, that the Bill might paſs in ſuch ſort as was ſigned by the Queen without any addition, which they thought could not be made without the conſent of her Majeſty; which meſſage was ſent after the Committees had agreed upon the Proviſo, and reported the ſame to the Houſe. The Commons took this manner of dealing to be very ſtrange, not having heretofore received any ſuch meſſage from the Lords, tending to preſcribe them what they ſhould do in the actions of that Council; and notwithſtanding that meſſage, intended to proceed as they had begun.

The next day the Lord procured another meſſage from the Lords, deſiring a meeting and conference with the Commons about it; which meſſage, the Commons conceiving it ſtrange to be in this manner preſ-

ſed,

sed, they gave the *Bill* a third reading, and the new Proviso, as the course is, and so sent up the *Bill* to the Lords with the Proviso annexed, with one other *Bill*.

Herewith the Lords were greatly moved, and the same afternoon sent a message to the Commons House by Mr. Justice *Manson*, and Serjeant *Burham*, that some of them should come to speak with certain of the Lords in such matters as they had to say to them, and to the Commons House; according to which message certain of the Commons House were appointed, and did give attendance, on the morrow morning between eight and nine of the clock in the Painted Chamber, sending in word by the Usher of their being there.

The Lords, after a great pause, at last came forth into the Painted Chamber; the number of them were many, and the persons of the principal Noblemen of that House: after they had taken their places at a long table, and used some conference amongst themselves, they called for those of the Commons House, to whom

whom the Lord Treasurer, in the name of all the rest present and absent, said in effect;

That the Lords of the Upper House could not but greatly mislike the dealing of the Commons House in their passage of that *Bill*, especially for that they had passed the *Bill* with a Proviso annexed, notwithstanding their sundry messages sent to them in his favour; and lastly, one message to have conference with them for resolution of such doubts as were moved; wherein they took themselves greatly touched in honour, and thought that the Commons House did not use that reverence towards them as they ought to do. The cause besides, (he said) was such as they saw no reason why the Commons House should proceed in that order; for the *Bill* being signed by her Majesty (he said) none might presume to alter or add any thing to it without the assent of her Majesty, which they for their parts durst not do; for proof whereof he shewed the Committees sundry Provisoes in the time of King *H.* 8. annexed to the like Bill signed by

by the King, inferring thereby that none might pass otherwise; moreover he said that by the opinion of the Judges which were in the Upper House, the saving which was in the Bill was so sufficient as there needed no addition of such Proviso as the Commons House have annexed; and therefore required them to know what reasons did lead them to proceed in this order.

This and some other large speeches being uttered to this end, the Committees answered, *That their Commission was only to hear what their Lordships would say; they would return and make report to the House, and so attend upon them again with answer.*

not. They were only to hear what their Lordships would say

When this was reported to the Commons House, it moved them all greatly, and gave occasion of many arguments and speeches, all generally misliking that kind of dealing with them, and thinking their liberty much trenched upon in three points; *One, that they might not alter or add to any* Bill *signed by the Queen; Another, that any conference should be looked for the bil remaining with them, except themselves*

saw

saw cause to desire it: *And the third, to yield a reason why they passed the* Bill *in that sort.*

After all these things were sufficiently debated, an answer was agreed upon to be returned to the Lords by the same Committees, and they gave their attendance upon the same Lords in the same place, to whom was said in effect by one of the Committees, and by the consent of the rest,

That they had delivered to the Commons House the sense of that which their Lordships had said unto them, which as they had conceived, did stand upon two parts; *One on the manner of their proceeding in this case*; *And the other on the matter wherein they had proceeded.*

To both which they had commission from the House to make unto their Lordships this answer:

First, *That they were very sory that their Lordships had conceived such an opinion of the House, as though they had forgotten their duty to them*; *praying their Lordships to think that the Commons House did not want consideration of the Superiority of their ho-*

honourable estate, in respect of their honourable calling, which they did acknowledge with all humbleness; protesting that they would yield unto their Lordships all dutiful respects, so far as the same was not prejudicial to the Liberties of their House, which it behoveth them to leave to their posterities in the same freedom they have received them.

And touching the particular Case, the manner of their proceedings (as they think) hath not been any way undutiful or unseemly.

For the Bill being sent from their Lordships to the Commons House, received there (within little space) two readings; and because upon the second reading, some objections were made to let the course of the Bill, the House thought fit to commit it; which doth shew that they had no disposition to overthrow the Bill, but to further it, both in respect of her Majesties signature, and that it came passed from their Lordships; and whether the Lord whom it concerned had cause or not to think himself favourably used in being heard by the Committees with his learn-

learned Counsel, they referred to their Lordships judgments. That after the Committees report of their doings, the House gave the Bill a third reading, and so passed the same in such sort as now their Lordships hear it, notwithstanding their sundry messages to the contrary; And lastly, notwithstanding their message of conference, they said they could not otherwise have done without breach of their liberties, for they took the order of Parliament to be, that when a Bill is passed in either House, "that House wherein the "Bill remaineth may desire conference "with the House that passed the Bill, "if they think good, but not otherwise; and this Bill passing from the Lords to the Commons House, they might desire conference, but not their Lordships, the Bill passing from themselves.

note 1 joint

And thus much for the manner of their proceedings; touching the matter wherein they have proceeded, in that they annexed a Proviso to this Bill, "the same being signed with her Ma-"jesties hand, they thought they might "lawfully do it without her Majesty, "taking her signature to be only a re-

2 joint

"com-

"commendation of the cause to both the "Houses, without which they could not "treat of any Bill of that nature; the "House not being thereby concluded, but "that they might alter or adde any "thing that should be thought meet "either for her Majesty or the Sub-"ject: which Proviso they have de-livered upon good consideration, not hasti-ly and inconsiderately, but upon great and sufficient reasons moving them, praying their Lordships so to conceive it: "Nevertheless to declare the rea-"sons in particular to their Lordships, "as they were required on that part, "the House desired their Lordships to "bear with them, for that were to yield "an account of the doings of things "passed in their House, which they "could not in any wise agree unto, be-"ing so prejudicial to their liber-"ties.

This speech finished, the Com-mittees were willed by the Lords to return unto the nether end of the Chamber; and after some pause and consultation amongst the Lords, they called again the Committees, and to them

them was said by the Lord Treasurer, that the Lords had considered the answer that the *Committees* had brought to them from the Commons House; and touching the first part thereof, he said, that although through such information as was given them, they might have cause to conceive amisse of the House in the manner of their proceedings, yet because themselves were the truest reporters of their own actions, and the best interpreters of their own meanings, the Lords did therefore accept thereof, and rested satisfied with the same.

But touching the other part, he once again pressed the Committees to shew cause why the House added that Proviso which the Lords took to be suspitious; the Bill (as he said) containing in it a saving that was sufficient for all causes that might happen.

To that was said by one of the Committees, that they *humbly thanked their Lordships that it pleased them to accept of their answers to the first part; but for the second, which concerned the matter it self, and the reasons that moved the House, he said, the Committees*

had no further authority to deal in, having only commission to deliver to their Lordships the answers which they received from their House.

Whereupon the Assembly brake up, the Lords returning to the higher House, and the Committees to their House; where at their coming, one of them reported their whole proceedings with the Lords, wherewith the House was much satisfied, seeing that so great a storm was so well calmed, and the liberties of the House preserved; which otherwise in time to come might have been prejudiced in those three points before remembred, which are indeed, if they be well considered, of great weight and importance.

The Bill (as it appeared after) *passed no further*; the Lords not liking the Proviso, nor the Commons House yielding to the withdrawing of it, for the causes afore declared.

Com-

Concerning amendments of Bills in the Journall of 31. Hen. 8.

Die Veneris 23. die Maii existen. 15. Parliamenti.

A Bill passed both Houses in one day.

HOdie per Dominum Vicegerent. quædam introducta est Billa concedens Reg. Majestati authoritatem constituendi Episcopos in diversis locis hujus Regni sui, quæ quidem *Billa prima, secunda & tertia vice lecta traditur Regis Attornato in Domum Communem deferend. & immediatè per ipsos de Domo Communi relata & expedita.*

Die Martis 24. die Junii 20. die Parliamenti poſt prorog. &c.

A Bill *by Aſsent amended after it had paſsed both Houſes.*

MEmorandum quòd hodierno die concordatum eſt inter Proceres & Communes, quòd cùm in Billa concernente ſtabiliamentum o, inionum, inactitatum ſit ut hujuſmodi ſacerdotes qui antehac uxores duxerint eaſdem ante feſtum Sancti *Johannis Baptiſtæ* (qui hodierno die eſt) repudiarent, ut nunc alter dies illis ad eaſdem repudiend. limitaretur, qui eſt duodecimus dies inſtantis menſis Junii, & ut *eadem Billa indicta ſententia raderetur & emendaretur*: Quod nota.

Die

Die Sabbati 28. die Junii 24. die Parliamen. poſt prorog. &c.

Concerning the adding of a Proviſo by the Commons to a Bill *by them ſent up.*

MEmorandum quòd immediatè poſt deceſſum præfati *Willielmi Kingſton* & aliorum, *Richardus Riche Miles* Cancellarius augmentationis reventionum coronæ Domini Regis, & alii de Domo inferiori proceribus declaraverunt, eos *Regiam Majeſtatem conveniſſe, illique ſupplicaſſe, quatenus eis liceret, annectere billæ concernenti punitionem eorundem qui accipitres, damas, aut cuniculos ſuæ Majeſtati pertinentes furaciter capient, proviſionem quandam limitantem tempus accuſationis pro tranſgreſſoribus ejuſdem Billæ; Regiamque Majeſtatem eis Petitionem ſuam hac in parte conceſſiſſe*; verùm priuſquam in Domum Communem reverſi ſint, dictam Billam per *Willielmum Kingſtone* militem

& alios ad Proceres fuisse allatam. Itaque præfatus *Richardus* Proceres (nomine Communitatis) rogavit, ut vel prædictam Billam illis remitteren, ut illi hujusmodi provisionem eidem annecterent, aut ut illis placeret talem provisionem componere, & eam dictæ Billæ annex. in Dom. Commun. mittere, cui per Dominum Canc. ex assensu Procerum responsum est, quod si præfatus Richardus hujusmodi provision. componeret, eandemque Proceribus afferret, illi circa eandem procederent prout inde causam cognoscerent.

A Ca-

A Catalogue of the Names of the Speakers of the Commons House of *Parliament*.

IN the Reign of *William Rufus* there was a great Councell of Parliament held at *Rockingham*, as may be collected out of the Hiſtory of *Eadmerus*, for he termeth the ſame; *Totius Regni Adunatio* and ſaith, that a certain Knight came forth and ſtood before the people, and ſpake in the name and behalf of them all, whereby the mind and conſent of the people was underſtood, who (as is conceived) was the Speaker of the Commons; but the Author nameth him not: this is mentioned onely becauſe of the antiquity thereof.

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Petrus de Mountford. 44 *H.* 3.

That he was Speaker of the House of Commons may be collected out of the Register of St. *Albane*, *Fol.* 207. where it is said, that he *Vice totius communitatis* consented to the banishment of *Adomar de Valence*, Bishop of *Wincheſter*; by which also it may be conceived, that the Lords and the Commons in that time sate in severall Houses, or at leastwise gave their assents severally.

Scroope. 6 *Ed.* 3.
Monsieur *William Trussel.* 13 *Ed.* 3.

The Commons answer by his mouth, and therefore it is conceived he was their Speaker, though not so named in the Record.

Sir *Peter de la Mare.* 49 *Ed.* 3.
Sir *Thomas Hungerford.* 51 *Ed.* 3.

First Speaker of record.

This is the first named Speaker upon Record. 51 *Ed.* 3. *n.* 89.

Sir *Peirce de la Mare.* 1 *Rich.* 2.

Sir

Sir *James Pickering.* 2 *Rich.* 2.
Sir *John Goldesborough.* 3 *Rich.* 2.
Sir *John Goldesborough.* 4 *Rich.* 2.
Sir *Richard Walgrave.* 5 *Rich.* 2.

He was the first that made excuse, desiring to be discharged (for ought appearing in Record;) but the King commanded him upon his allegiance to accept the place, seeing he was chosen by the Commons.

Sir *James Pickering.* 6 *R.* 2.

No Speaker recorded from 6 *R.* 2. to 17.
Sir *John Bushye.* 17 *R.* 2.

He was presented to the King in full Parliament by the Commons, the first I finde so presented; he was a special Minion to the King.
Sir *John Bushey.* 20 *R.* 2.

There are many Parliament-rols of *R.* 2. which mention no Speaker, as; 11, 13, 14, 15, 16, 18.

Sir *John Bushey.* 21 *R.* 2.

This Parliament was held in the Palace yard of *Westminster*, in a long house built with Timber of purpose, left open at both ends; both the Houses sate together therein, an especiall place made for the Speaker: the cause of this extraordinary meeting was the impeachment of the Duke of *Glocester*, the Earl of *Arundel* and *Warwicke*.

The Houses sat together.

Sir *John Cheyney*. 1. *H.* 4.

He is stiled in the Roll not onely *Parlour*, but *Procurator de les Commons*: the next day after he was presented he grew sick, and the *Commons* made choyce of Mr. *John Dorwood* in his place; and yet he came up with the Commons to the Lords House, and prayed to be discharged, by reason of his infirmity, declaring whom the Commons had made choyce of, and prayed he might be accepted, which was granted; and he made the like Protestation as Sir *John Cheyney* had done, which was, that he might have liberty to amend any mistaking in that which he should deliver from the Com-

Commons, and made none of the other requests now usuall.

John Dorwood Esquire. 1. *H.* 4.

He made no excuse, for ought appeareth.

Sir *Arnold Savage.* 2. *H.* 4.

The first time appearing upon any Record that the Commons were required by the King to choose a Speaker, but afterward it is still continued, only omitted 16. of *Henry* the Fourth.

Sir *Hewry de Redeford.* 4. *H.* 4.
Sir *Arnold Savage.* 5. *H.* 4.

After he had made the ordinary protestation concerning his own mistakings, he further desired the King, in the names of the Commons, that they might freely make complaint of any thing amisse in the Government, and that the King by the sinister information of any person would not take offensively that which they should

should complain of in that behalf: which Petition was yielded unto by the King. 5.*H.*5. 11.8.

Sir *William Sturmy.* 6. H. 4.
Sir *John Cheyney.* 6. H. 4.

Parliamentum indoctorum, so called, because in the writ of Summons there was a Clause no Lawyer should be chosen. not.

Sir *John Tiptoft.* 7. H. 4.

He desired to be discharged, because of his youth, but he was nevertheless allowed of; but having forgotten to make the usuall protestations upon the day of his allowance, he came up the next day and made it, and added further (which never any Speaker did before or since) that if any writing were delivered by the Commons this Parliament, and they should desire to have it again to amend any thing therein, it might be restored to them; which was granted. *R. Par.* 7. *Henry* 4. *n.* 6. he was the sonne of *John* Lord *Tiptoft*, and in the tenth yeare of *Henry*

Henry the fourth was made Lord Treasurer of *England*, and created Earl of *Worcester* by *H.6.* while he was Speaker he signed and sealed the Deed of the intailing of the Crown, 7 *H.* 4. with these words, *Nomine totius Communitatis.*

Thomas Chaucer Esq.	9 *H.*4.
Thomas Chaucer Esq.	10 *H.* 4.
Thomas Chaucer Esq.	13 *H.*4.
William Stourton Esq.	1 *H.*5.

This Speaker, without the assent of his Companions, did agree before the King to deliver in Parliament certain Articles; but about three days following, the Commons finding themselves agrieved therewith, sent unto the Lords (the King being then present) Mr. *Iohn Dorewood*, and divers of the Commons with him, and declared to the King that their Speaker had no authority from them to yield thereunto, and therefore they desired to be excused therein, which the King was pleased to accept: about 2. months after the Cõmons coming before the King did present for their Speaker

Speaker the ſame Mr. *John Dorwood*, becauſe their old Speaker being ſick in his bed was not able to execute the place, whom the King allowed of.

John Doreward, Eſquire.	1 H.5.
Thomas Chaucer, Eſquire.	3 H.5.
Walter Hungerford, Eſquire.	2 H.5.
Richard Redman, Eſquire.	3 H.5.
Sir *Walter Beauchamp*.	3 H.5.
Roger Flower, Eſquire.	4 H.5.
Roger Flower, Eſquire.	5 H.5.
Roger Flower, Eſquire.	7 H.5.
Richard Baynard.	9 H.5.
Roger Flower, Eſquire.	1 H.6.
John Ruſſel, Eſquire,	2 H.6.
Sir *Thomas Wauton*.	3 H.6.
Richard Vernon, Eſquire.	4 H.6.
John Tirell, Eſquire.	6 H.6.
William Allington, Eſquire.	8 H.6.
John Tirel, Eſquire.	9 H.6.
John Ruſſel, Eſquire.	10 H.6.
Roger Hurſt, Eſquire.	11 H.6.
John Bowes, Eſquire.	14 H.6.
Sir *John Tirrel*.	15 H.6.
Sir *John Tirrel*.	17 H.6.

The King taking notice of the ſickneſs of the Speaker, and that by reaſon

ſon thereof he could not intend the affairs of the Parliament, commanded the Commons to make choice of a new Speaker; who accordingly did make choice of one Mr. *William Boerly*, and did by one *John Hody* (Knight of the Shire) inform the King thereof, who thereupon was allowed of by the King without any more ceremony.

William Boerly, Eſquire.	17 H.6.
William Treſſam, Eſquire.	18 H.6.
William Burley, Eſquire.	23 H.6.
William Treſſam, Eſquire.	25 H.6.
John Day, Eſquire.	27 H.6.
Sir *John Popham*.	28 H.6.

His excuſe by reaſon of his age and impotency by his ſervice in the warre, was allowed of by the King, and the ſame day the Commons preſented Mr. *William Treſham* for their Speaker, and he was allowed.

William Treſham, Eſq.	28 H.6.

He made no excuſe at all, for ought appearing on the Record.

Sir

Sir *William Oldham.* 29 *H.6.*

He made no excuſe.

Thomas Thorp, Eſq. 21 *H.6.*
Thomas Thorp, Eſq. 31 *H.6.*

He was arreſted in execution at the ſuit of the Duke of *York* between two Seſſions of Parliament; wherein the opinions of the Judges being demanded by the Lords, they anſwered, it belonged not unto them to judge of the liberties of Parliament; whereupon (without them) it was adjuged that he was not to have priviledge; which was ſignified to the Commons by ſome of the Lords, and the Kings pleaſure for preſent chuſing of a new Speaker was declared unto them; whereupon they forthwith choſe Sir *Thomas Charlton.*

Sir *Thomas Charlton.* 31 *H.6.*
Sir *John Wenlock.* 33 *H.6.*
Thomas Treſham, Eſq. 38 *H.6.*
John Green, Eſq. 39 *H.6.*
Sir *James Strangwaies.* 1 *Ed.4.*
John Say, Eſq. 7 *Ed.4.*

William

William Allington, Esq.	12 *Ed.*4.
William Allington, Esq.	17 *Ed.*4.
John Wood, Esq.	22 *Ed.*4.
William Catesby, Esq.	1 *R.*3.

In these times the Lord Chancellor, Speaker of the Lords House (being for the most part a Bishop) took a Text out of Scripture, or some other Theme, and grounded his Oration thereupon, therein declaring the cause of the Summons of the Parliament; and in conclusion thereof, as the use now is, declared to the House of Commons the Kings pleasure, that they should repair to their House and make choice of a Speaker, not naming any day when they should present him (as is now used;) and when the Commons had chosen their Speaker, they sent up some of their House to the Lords to desire them to intimate to the King that they had made choice of a Speaker, not naming whom, and to move the King to appoint a time when they should present him, and (commonly the King having been formerly spoken unto) the day agreed upon by the K. was declared to them

The use at this day for election of a Speaker.

them; at the day appointed, the Commons presented their Speaker, who prayed that he might be excused; but his excuse not being admitted, he maketh the common protestation touching his own mistakings, without any petitions in the behalf of the Commons, as is now usual.

Thomas Lovel, Esq. 1 H.7.

After Knighted and made of the Privy Councel to King *Henry* 7. and *Henry* 8.

John Mordant. 3 H.7.
Sir *Thomas Fitzwilliams.* 4 H.7.
Richard Empson, Esq. 7 H.7.

Learned in the Laws, Recorder of *Coventry*, afterwards of the Privy Councel to *Henry* 7.

Sir *Reginald Bray.* 11 H.7.

He made the usual protestation for himself, but there is no mention at all upon the Record concerning any petition for the liberty of the Commons.

Robert

Robert Drury, Esq. 11 *H.7.*
Thomas Inglefield, Esq. 12 *H.7.*
Edmond Dudley, Esq. 19 *H.7.*

Learned in the Laws, he was afterward of the Privy Councel to *Henry* 7.

Sir *Thomas Inglefield*. 1 *H.8.*
Sir *Robert Sheffield*. 3 *H.8.*

Recorder of *London*.

Sir *Thomas Nevil*. 6 *H.8.*

The Speakers presentment, excuse, and protestation were only entered on Record before this time, but no oration of theirs till this time.

Sir *Thomas More*. 14. and 15. *H.8.*

Chancellor of the Dutchy of *Lancaster*, after Lord Chancellor of *England*; he was Speaker of the House of Commons in this Parliament, and Speaker of the Lords House the next; he made the usual protestation for himself, and prayed if any of the Com-

Commons ſhould in debate of matters ſpeak more largely then they ought, that it might be pardoned by the King; which the King granted.

Thomas Audley. 21 *H.*8.

Serjeant at Law, Chancellor of the Dutchy of *Lancaſter*, Lord Keeper of the Great Seal; in 24 *H.*8. made Lord Chancellor of *England*, and laſtly created a Baron: he made the uſual proteſtation for himſelf, but there is no mention upon the Record of any petition by him made in the behalf of the Commons.

I have not found any Speaker named in the Record or Chronicles in theſe years of *H.*8. *viz.* 22, 23, 24, 25, 26, 27.

Richard Rich. 28 *H.* 8.

Afterwards made L. Chancellor, and created a Baron; the firſt that is recorded to have made requeſt for acceſs to the King: from him are diſcended the Earls of *Warwick* and *Holland*, now living.

Sir

Sir *Nich. Hare.* 31 *H.*8.

Afterwards Maſter of the Rolls, and after that Lord Keeper of the Great Seal of *England*, after which he lived but fourteen days.

Thomas Moyle Eſq. 34 *H.*8.

The firſt that is recorded to have made petition for freedom of ſpeech; the petition for priviledge from arreſt is of latter dayes, but it appears in the firſt of *H.* 4. that Sir *John Cheney* then Speaker made a general requeſt that the Commons might enjoy their ancient priviledges and liberties, not naming any liberty in particular; and he is noted to be the firſt that is recorded to have made that requeſt, but they all make the uſual requeſt or proteſtation touching themſelves.

In the latter end of the reign of K. *H.*8. there is no mention made in the Parliament-Roll of the preſenting of any Speaker, nor in the time of *E.*6. or Queen *Mary*, nor during the reign of

of Queen *Eliz.* when Sir *John Puckering* was Speaker, but the memories of the Speakers names of those latter times is onely presented in the Journals of both houses.

Sir *John Baker.* 1 *Ed.6.* to 5.

Four Sessions. Chancellor of the Augmentations.

Sir *James Dyer*, Knight. 7 *Ed.6.*

Serjeant at Law, afterwards Kings Serjeant, and Lord Chief Justice of the Common-Pleas.

John Pollard, Esq. 1 *Mary.*

Learned in the Lawes, he continued Speaker during two Sessions.

Clement Higham, Esq. 1. & 2. *P.M.*

Learned in the Lawes, and one of the Privy Councel, afterward Knighted, and made Lord Chief Baron of the Exchequer.

Joh

John Pollard, Esq. 2. and 3. *P.M.*

Learned in the Lawes, afterward made Serjeant.

William Cordal, Esq. 1. & 2. *P.M.*

Master of the Rolls and one of the Privy Councel; he was Knighted the day he made his Oration, and was Master of the Rolls when he was chosen Speaker; as may appear by comparing the date of his Letters Patents, with the time of his being chosen Speaker.

Sir *Thomas Gargrave.* 1 *Eliz.*

Learned in the Lawes, and one of the Queens Councel in the North: he made the four Requests, ever since and now usually made by most Speakers, as appears by his Oration.

First, for free accesse to the Queen.

Secondly, liberty of speech.

Thirdly, for priviledge from Arrests.

Fourth-

4 Fourthly, that his miſtaking might not prejudice the Houſe.

Thomas Williams Eſq. 5 *Eliz.*

Learned in the Lawes.

Richard Onſloe Eſq. 8 *Eliz.*

The Queens Solicitor; he was firſt choſen Member of the Commons Houſe, and then being made Queens Solicitor had a writ toattend in the upperHouſe, and upon the death of Mr. *Williams*, at the requeſt of the Commons, was ſent unto them, and they choſe him their Speaker, but ſo, as the Houſe was divided upon the queſtion.

Chriſtopher Wray Eſq. 13 *Eliz.*

Learned in the Lawes, afterwards Lord Chief Juſtice of the Kings Bench.

Robert Bell Eſq. 14 *Eliz.*

Learned in the Lawes, after made Ser-

Serjeant and Lord Chief Baron.

John Popham Esq. 23 *Eliz.*

Solicitor to the Queen, chosen in place of Sir *Robert Bell*, who was made Lord Chief Baron, and died also before this Session. Mr. *Popham* was afterwards made the Queens Atturney, and after Chief Justice of the Kings Bench, and one of the Privy Councel; when he was chosen Speaker he was an Assistant in the Upper House, and sent for as Mr. *Ousloe* was.

Mr. Serjeant *Puckering* 27 *Eliz.*

Till twenty eight during two Sessions: afterwards made the Queens Serjeant and Lord Keeper of the Great Seal.

Mr. Serjeant *Snag.* 31 *Eliz.*

Afterward made Queens Serjeant.

Edward Cook Esq. 35 *Eliz.*

Solicitor general, afterward made Queens Atturney, and Knighted; Lord Chief Justice of the Common Pleas, a Privy Councellor, and lastly made Lord Chief Justice of the Kings Bench.

Mr. Serjeant *Yelverton.* 39 *Eliz.*

Afterward made Queens Serjeant, and after that one of the Judges of the Kings Bench, and Knighted.

Mr. Serjeant *Crook.* 43 *Eliz.*

Recorder of *London*, afterwards made Serjeant to King *Iames*, and one of the Justices of the Kings Bench, and Knighted.

Mr. Serjeant *Phelips.* 1 *Iac.*

He was, during the time he was Speaker made Master of the Rolls, and yet sate as Speaker.

Sir *Ranulph Crew.* 12 *Iac.*

Ser-

Serjeant at Law, afterwards made Kings Serjeant and Chief Justice of the Kings Bench.

Sir *Thomas Richardson.* 18 *Iac.*

Serjeant at Law, afterwards made Kings Serjeant and Chief Justice of the Common Pleas, and after Chief Justice of the Kings Bench.

Sir *Thomas Crew.* 21 *Iac.*

Serjeant at Law, afterwards made Kings Serjeant.

Sir *Thomas Crew.* 1 *Car. Reg.*
Sir *Heneage Finch.* 1 *Car. Reg.*

Recorder of *London*, Serjeant at Law.

Sir *Iohn Finch.* 3. & 4. *Car.*

Queens Atturney, afterwards made one of the Kings Councel at Law, then Chief Justice of the Common Pleas, and lately Lord Keeper of the Great Seal.

Iohn

John Glanvile Esq. 16 *Car.*

Serjeant at Law, at the Parliament begun the 13. of *April* 1640. and was dissolved *May* 5. following; and so continued but twenty two days, afterwards he was made the Kings Serjeant.

William Lenthal Esq. 16 *Car.*

Learned in the Lawes, one of the Benchers and Readers of *Lincolns*-Inne at the Parliament which begun *November* 3. 1640.

FINIS.